



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

July 7, 2015

Secretary Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission v.  
Columbia Gas of Pennsylvania, Inc.  
Docket No. R-2015-2468056

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E) **Reply to Motion of Compel Discovery of Columbia Gas of Pennsylvania, Inc. – Set I-8 or Strike Testimony** in the above-captioned proceeding.

Copies are being served on parties as identified in the attached certificate of service. If you have any questions, please contact me at (717) 425-7593.

Sincerely,



Scott B. Granger

Prosecutor

Bureau of Investigation and Enforcement  
PA Attorney I.D. #63641

Enclosure  
SBG/snc

cc: Certificate of Service  
ALJ Mary D. Long

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :  
 :  
 v. : Docket No. R-2015-2468056  
 :  
 Columbia Gas of Pennsylvania, Inc. :

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Reply to Motion of Compel Discovery or Strike Testimony** dated July 7, 2015, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

**Served via Electronic and First Class Mail**

Michael W. Hassell, Esquire  
Lindsay A. Berkstresser, Esquire  
Post & Schell, PC  
17 North Second Street – 12<sup>th</sup> Floor  
Harrisburg, PA 17101

Theodore J. Gallagher, Esquire  
Columbia Gas of Pennsylvania, Inc.  
121 Champion Way, Suite 100  
Canonsburg, PA 15317

Andrew S. Tubbs, Esquire  
NiSource Corporate Service Company  
800 N. Third Street, Suite 204  
Harrisburg, PA 17102

Patrick Cicero, Esquire  
Harry S. Geller, Esquire  
Elizabeth R. Marx, Esquire  
PA Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101-1923  
(*Counsel for CAUSE PA*)

Erin Gannon, Esquire  
Office of Consumer Advocate  
555 Walnut Street  
5th Floor Forum Place  
Harrisburg, PA 17101-1923

Daniel G. Asmus, Esquire  
Office of Small Business Advocate  
300 North Second Street  
Suite 202  
Harrisburg, PA 17101

Thomas J. Sniscak, Esquire  
William H. Lehman, Esquire  
Hawke McKeon & Sniscak, LLP  
100 N. 10<sup>th</sup> Street  
Harrisburg, PA 17101  
(*Counsel for PSU*)

Todd S. Stewart, Esquire  
Hawke McKeon & Sniscak, LLP  
100 N. 10<sup>th</sup> Street  
Harrisburg, PA 17101  
(*Counsel for NGS Parties*)

Charis Mincavage, Esquire  
Elizabeth P. Trinkle, Esquire  
McNeese Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108  
(Counsel for CII)

Thomas J. Sniscak, Esquire  
Christopher M. Arfaa, Esquire  
William E. Lehman, Esquire  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101

John F. Povilaitis, Esquire  
Karen O. Moury, Esquire  
Buchanan Ingersoll & Rooney PC  
409 North Second Street  
Suite 500  
Harrisburg, PA 17101-1357  
(Counsel for RESA)

**Served via Electronic Mail**

Hobart J. Webster, Esquire  
[hwebster@paoca.org](mailto:hwebster@paoca.org)

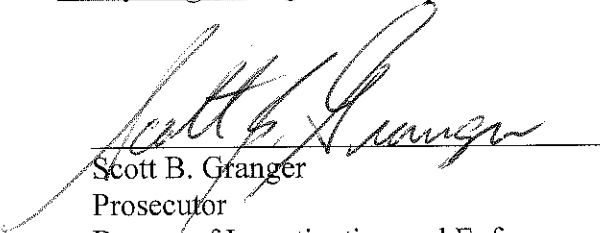
Rebecca Nace  
[rnace@paoca.org](mailto:rnace@paoca.org)

Ms. Witten  
[MWhitten@LaCapra.com](mailto:MWhitten@LaCapra.com)

Denise Smith  
[DSmith@paoca.org](mailto:DSmith@paoca.org)

Amy Hirakis, Esquire  
[ahirakis@paoca.org](mailto:ahirakis@paoca.org)

Whitney E. Snyder, Esquire  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)

  
\_\_\_\_\_  
Scott B. Granger  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney I.D. No. 63641

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	
	:	R-2015-2468056
Columbia Gas of Pennsylvania, Inc.	:	
Base Rate Case	:	

---

BUREAU OF INVESTIGATION AND ENFORCEMENT  
REPLY TO MOTION TO COMPEL RESPONSE TO DISCOVERY, OR IN THE  
ALTERNATIVE TO STRIKE TESTIMONY

---

**TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:**

In response to the Motion of Columbia Gas of Pennsylvania, Inc. to Dismiss Objections and Compel Response to Discovery Propounded on the Bureau of Investigation and Enforcement – Set I-8, or in the Alternative to Strike Testimony, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits the following:

**I. INTRODUCTION**

1. Admitted.
2. Admitted in part, denied in part. To the extent that the averments set forth in Paragraph 2 are factual, they are admitted. To the extent that the averments in Paragraph 2 are conclusions of law, no response is required and they are therefore denied.
3. Denied in part, admitted in part. Counsel for I&E thought it was made clear that the information sought by Columbia was obtained from other NGDC’s that are

not parties to this proceeding, and therefore, the information possessed by I&E Gas Safety was privileged, confidential and proprietary. It is I&E Gas Safety's position that the information gathered from the other NGDC's is privileged, confidential and proprietary and cannot be shared with the other NGDC's. Therefore, it is denied that counsel for Columbia received no response from counsel for I&E.

By way of further response, the other NGDC's submitted the subject information to I&E Gas Safety in response to form letter FL-1-15 ("FL-1-15") which was attached to I&E Exhibit No. 4 as Schedule 7 and is attached hereto as Exhibit "A". I&E Gas Safety only included a compilation derived from the privileged, confidential and proprietary information submitted by the other NGDC's without identifying the specific NGDC that submitted the information and without revealing the underlying specific confidential, privileged and proprietary information submitted by the NGDC's.

It is admitted that counsel for Columbia called I&E counsel when I&E counsel was away from his desk, and therefore, I&E counsel did not answer the phone. By way of further response, there were a series of emails circulated around that same time dealing with other discovery issues to which I&E counsel responded by providing additional information and spreadsheets sought by Columbia's counsel during the week leading up to the Fourth of July Weekend. Counsel for I&E and Columbia traded emails and spoke regarding discovery issues. One such conversation was had regarding the spreadsheets. However, the issue regarding I&E's objections was not raised or discussed. I&E counsel thought it's position was clear that I&E Gas Safety was of the opinion that it could not

turn over the proprietary, privileged and confidential information that was provide to I&E Gas Safety by the other NGDC's in response to form letter FL-1-15.

4. Denied. 52 Pa. Code Section 5.321(c), as part of the Pennsylvania Code and Commission regulations, speaks for itself. Furthermore, to the extent the averments in Paragraph 4 are conclusions of law, no response is required and they are therefore denied.

5. Denied. The averments in Paragraph 5 are prayers for relief, therefore, no response is required and they are therefore denied. .

## **II. I&E's OBJECTION SHOULD BE SUSTAINED**

6. Denied. The discovery sought by Columbia through CPA-I&E-I-8 is confidential, privileged and proprietary. I&E's reply to Paragraph 3, *supra*, is incorporated herein by reference. Furthermore, FL-1-15 is sent by I&E Gas Safety to every NGDC in Pennsylvania. FL-1-15 is a three page document which asks for a large amount of detailed information from the NGDC's. FL-1-15 contains twenty-one numbered paragraphs, each requesting detailed information from the NGDC's. The information that is provided by the NGDC's to I&E Gas Safety includes confidential, privileged and proprietary information. I&E derived and summarized the information prior to including it in witness Kline's testimony. The names of the NGDC's were not stated and the underlying specific privileged, confidential and proprietary information was protected.

7. To the extent the averments in Paragraph 7 quote the Direct Testimony of I&E witness David Kline, they are admitted. Furthermore, I&E's replies to Paragraphs 3 and 6, *supra*, are incorporated herein by reference. By way of further response, I&E provided this derived compilation of information without identifying the names of the companies that provided the information. I&E only identified the other large Pa. NGDC's as Companies A through H, thereby maintaining the privileged, confidential and proprietary nature of the information gathered by I&E Gas Safety using form letter FL-1-15. The information, when set forth in the manner in which it was, is sufficient to support witness Kline's testimony; and to afford Columbia the opportunity to respond to the testimony and data.

8. Admitted in part, denied in part. While it is admitted that the information sought is related to the issues raised in witness Kline's testimony, it is denied that Columbia is entitled to review the responses provided by the other NGDC's to I&E Gas Safety in response to form letter FL-1-15. I&E's replies to Paragraphs 3, 6 and 7, *supra*, are incorporated herein by reference. The derived summary of the privileged, confidential and proprietary information provided by witness Kline is sufficient to allow Columbia to prepare a response regarding Columbia's pipeline replacement methodology and costs.

9. Denied. I&E's replies to Paragraphs 3, 6, 7 and 8, *supra*, are incorporated herein by reference. Furthermore, I&E has not disclosed any specific privileged, confidential or proprietary information provided to I&E Gas Safety by any specific

NGDC in response to FL-1-15 to any other specific NGDC. I&E has only included derived summaries of the data collected by I&E Gas Safety in response to the form letter FL-1-15 and has listed those summaries under generic Companies A through H.

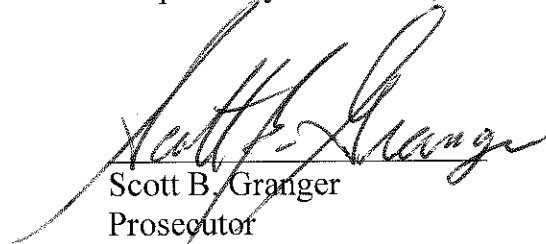
Furthermore, the Stipulated Protective Agreement does not protect the proprietary, privileged and confidential nature of the information sought by Columbia in its discovery requests from being possessed and reviewed by other NGDC's, including Columbia. Columbia is one of the NGDC's from which the proprietary, privileged and confidential information must be withheld. The Protective Agreement does not prevent that.

10. Denied. To the extent the averments in Paragraph 10 are prayers for relief, no response is required and they are therefore denied. Furthermore, I&E' replies to Paragraphs 3, 6, 7, 8 and 9, *supra*, are incorporated herein by reference.

### III. CONCLUSION

For the reasons set forth above, the Bureau of Investigation and Enforcement respectfully requests that Administrative Law Judge Mary D. Long Deny Columbia's Motion to Dismiss Objections and Compel Responses to Discovery or in the Alternative Strike Testimony, and Sustain the objection raised by I&E in its response to Columbia Interrogatory I&E Set I-8.

Respectfully Submitted,



Scott B. Granger  
Prosecutor  
PA Attorney I.D. # 63641

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Post Office Box 3265  
Harrisburg, Pennsylvania 17105-3265  
(717) 787-1976

Dated: July 7, 2015

# Exhibit A



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

January 27, 2015

IN REPLY PLEASE  
REFER TO OUR FILE

REFERENCE:  
FL-1-15

MR. MICHAEL HARJU  
ABLE COMPANY  
3189 JUNEAU ROAD  
PUNSUATAWNEY PA 15767

Dear Mr. Harju:

Each year The Pennsylvania Public Utility Commission's Gas Safety Division enters into an agreement with the U.S. DOT Pipeline and Hazardous Materials Administration (PHMSA) to enforce the federal pipeline safety regulations. As such, PHMSA audits the Gas Safety Division each year. The PHMSA annual program evaluation is a review of the State agency's pipeline safety program. It includes an examination of State agency policies, plans, procedures, and records of the previous calendar year as well as the observation of the field inspection of a pipeline operator. The evaluation is usually conducted by the State Liaison Representative (SLR) from the Regional Office.

This year's evaluation includes questions that require the Gas Safety Division to investigate and collect data regarding plastic pipe failures, cast iron failures, damage prevention statistics, NTSB requirements, riser issues, DIMP and risk reduction, public awareness statistics, inside meter sets, pipeline replacement, and leak surveys.

In order to respond accurately and completely, the Gas Safety Division is requesting that all utilities refer to the Gas Safety webpage to download electronic schedule formats. The formats are created in Microsoft Excel and should be filed in the same format with this office. **DO NOT FILE INFORMATION IN A PDF FORMAT.** If there are any questions regarding the requested information, please contact this office for guidance.

1. Complete the Plastic Pipe Failure Template, located on the Gas Safety webpage. Also include a written explanation as to measures taken to mitigate any safety concerns.
2. Identify any and all cast iron pipe and component that has failed including bell joints; provide the reason for failure, date of the failure, information discovered from the investigation of the failure, and any actions the operator is taking to mitigate future failures, and provide the operator's procedures for determining if exposed cast iron pipe was examined for evidence of graphitization.
3. Provide your company's operating procedures for surveillance of cast iron pipelines, including appropriate action resulting from tracking circumferential cracking failures, study of leakage history, or other unusual operating maintenance condition.
4. Provide your company's operating procedures for abandoning pipeline facilities.
5. Provide your company's operating procedures for analyzing pipeline accidents to determine their cause.

6. Provide your company's operating procedures for emergency response as it relates to leaks caused by excavation damage near buildings and multiple leaks and underground migration of gas into nearby buildings.
7. Complete the Steel and Plastic Coupling Failure Template, located on the Gas Safety webpage. Identify any mechanical coupling failure related to mains and services on steel and plastic pipelines. Through 49 CFR 191.12, PHMSA requires a submitted form for F-7100.1-2, which per 49 CFR 192.1009, requires reporting of failed couplings resulting in hazardous leaks. PA PUC is requiring reporting of all mechanical coupling failures, regardless of resultant leak classification. Be sure to include the manufacturer of the failed coupling and the data for the type of main or service.
8. Complete the Damage Prevention Template, located on the Gas Safety webpage. Include in the data, pipeline damages by your own utility crews and your contractors.
9. Provide all documents supporting your company's public awareness actions during 2014. Also provide your company's evaluation of the public awareness programs. Provide a list of public awareness activities for 2014.
10. Provide your company's direction drilling/boring procedures (and your contractor procedures). Show how your procedures and your contractor's procedures include actions to protect your facilities from the dangers posed by drilling and other trenchless technologies.
11. Provide a list identifying all HCA's within your operating system. Provide the location and pipeline identification number.
12. Provide your company's drug and alcohol testing operator program rates and procedures for handling positive responses.
13. Participation in the plastic pipe data base reporting initiative is encouraged. Provide a discussion as to whether your company provided input to the PPDC.
14. Provide confirmation that your company submitted data to the National Pipeline Mapping System for transmission pipelines along with any changes made after the original submission.
15. Complete the Leak Survey Template located on the Gas Safety webpage.
16. Complete the Inside Meter Set Template located on the Gas Safety webpage.
17. Provide a schedule for the last five calendar years showing the (1) annual budgeted pipeline replacement miles (by pipeline type, i.e. cast iron, bare steel, services, etc.) and the estimated replacement cost; (2) the annual actual pipeline replacement miles (by pipeline type, i.e. cast iron, bare steel, services etc.) and actual replacement cost. Break down costs, budgeted and actual, into pipeline costs, service costs and improvements (i.e. street paving, curbing, sidewalks etc.)
18. Provide a schedule depicting the pipeline miles replaced by type, corresponding risk factor reduction, and a comparison of how your DIMP risk total decreased by project for calendar year 2014.
19. Provide a spreadsheet showing riser failures discovered during the last 3 years. Identify the riser manufacturer and whether the riser is owned by the customer or the utility. Provide a detailed discussion as to your utility's inclusion of riser failures in the DIMP.

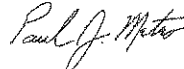
FL-1-15  
Page 3

20. Provide a spreadsheet identifying stray gas calls, location, and company procedures related to stray gas for calendar year 2014. Also, the Gas Safety Division has attached recommended procedures for stray gas issues. Detail how stray gas calls were resolved, include referenced procedures.
21. Provide a detailed schedule listing all pipe segments and miles of pipeline that were installed after 1971 that are coated but not cathodically protected. Also provide a discussion as to how these sections were identified in your DIMP or IMP plan and the operator's plan to mitigate this risk.

Please provide the requested information 30 calendar days from receipt of this letter. (If possible provide numbers 17 and 18 within 10 calendar days.)

This office is committed to ensuring that all natural gas companies comply with the provisions of the Public Utility Code. Therefore, you are advised that, if you fail to comply with the above requests this office will initiate all appropriate enforcement actions pursuant to the Public Utility Code against the utility and its officers, agents and employees.

Sincerely,



Paul J. Metro, Manager  
Gas Safety Division  
Bureau of Investigation and Enforcement

Enclosure

PM: bb

PC: Johnnie Simms, Director, I&E  
PA PUC Gas Safety Inspectors