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October 7, 2005

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

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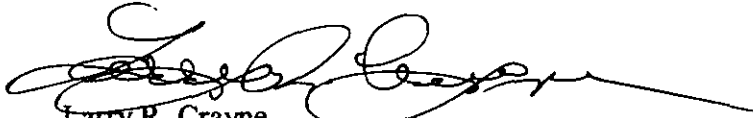
PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**Re: Nelson Heeter/Heeter Printing Co. v. Columbia Gas of Pennsylvania, Inc.  
Complaint Docket No. C-20055351**

Dear Mr. McNulty:

Enclosed are an original and four copies of Columbia Gas of Pennsylvania, Inc's Answer and Motion to Dismiss the referenced Formal Complaint. Please file the original and three copies of the Answer and Motion to Dismiss and return a date-stamped copy to me in the envelope provided for your convenience. A copy of the document has been served on the complainant.

Sincerely,

  
Larry R. Crayne

ORIGINAL

enclosure

cc: Nelson Heeter  
441 Technology Drive  
Canonsburg, PA 15317

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**Commonwealth of Pennsylvania**

**Before the Pennsylvania Public Utility Commission**

In the Matter of:

Nelson Heeter/Heeter Printing Co.  
Complainant,

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Complaint Docket  
No. C-20055351

VS.

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Columbia Gas of Pennsylvania, Inc.  
Respondent.

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**Answer To Formal Complaint**

AND NOW comes Respondent, Columbia Gas of Pennsylvania, Inc. (Columbia Gas), and states and avers as follows:

1. Admitted.
2. Admitted.
3. Admitted.
- 4.A. Admitted.

4.B. Admitted that Complainant alleges he experienced a subsidence of the earth adjacent to his building, which earth slide Complainant alleges caused damage to the building. Denied that any gas transmission line of Columbia Gas or any activities of Columbia Gas was the proximate cause of whatever earth movement may have occurred, or contributed in any way to whatever damage Complainant's building may have suffered. Denied that Complainant has offered any proof that the gas transmission line contributed to the alleged damage to Complainant's building. To the contrary, Complainant's contractor attributed the damage to the construction of the building in the side of the adjacent hill which prevented ground water from running over the surface of the land, consequently resulting in the inability of the natural terrain to normally dissipate the ground water which apparently resulted in whatever damage may have occurred to Complainant's building.

5. Paragraph 5 is a prayer for relief and no answer is required. Nevertheless, by way of further and more complete answer, Columbia Gas avers that the request to be reimbursed for alleged damages to the building is in the nature of a request for civil damages, a request which the Commission does not have the power to award.

6. Columbia Gas is neither able to admit nor deny the averment in Paragraph 6 since the information is within the exclusive knowledge and control of the Complainant.

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7. Admitted.

**New Matter  
Motion to Dismiss  
Lack of Jurisdiction**

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**And Now** comes Columbia Gas and files the following Motion to Dismiss pursuant to 52 Pa. Code, Sections 5.62 (b) and 5.101 (a) (1) and 5.101 (b):

1. Complainant has filed a complaint with the Commission requesting an order directing Columbia Gas to pay for alleged damages to his building by reason of water runoff sometime during "last years heavy rain".
2. Complainant attributes these damages to the existence of a gas transmission line, which he surmises somehow contributed to the damage to his building.
3. The gas transmission line that is the subject of this Complaint is owned by Columbia Gas Transmission Corp (Columbia Gas Transmission). Columbia Gas of Pennsylvania owns no facilities in this area. While Columbia Gas Transmission is affiliated with Columbia Gas of Pennsylvania and shares the same parent NiSource, Inc., Columbia Gas Transmission is a separate corporate legal entity. It provides gas transportation and storage services whereas Columbia Gas of Pennsylvania provides natural gas distribution services to the public. Pursuant to jurisdiction granted by the Federal Power Act, the Federal Energy Regulatory Commission regulates the gas transmission and storage facilities of Columbia Gas Transmission.
4. The definition of public utility in the Public Utility Code states in relevant part: "Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for: ... (v) Transporting or conveying natural or artificial gas ... by pipeline or conduit, for the public for compensation." 66 Pa. C.S., Section 102. Columbia Gas Transmission owns no such facilities in the Commonwealth of Pennsylvania transporting or conveying natural gas for the public for compensation. Therefore, Columbia Gas Transmission is not subject to the jurisdiction of the Public Utility Commission under the Public Utility Code.

**Wherefore**, Columbia Gas moves that the Complaint in this proceeding be dismissed for the reason that the subject matter of this Complaint involves no activities or facilities of Columbia Gas of Pennsylvania, Inc., but concerns gas transmission line facilities which are owned by Columbia Gas Transmission Corp, an interstate gas pipeline transmission and storage corporation subject to the jurisdiction and regulation of the Federal Energy Regulatory Commission. Therefore, the Pennsylvania Public Utility Commission has neither the statutory jurisdiction nor power to hear this matter or grant Complainant the relief requested.

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**New Matter  
Motion to Dismiss  
Complainant is Requesting an Award of Monetary Damages**

**And Now** comes Columbia Gas and files the following Motion to Dismiss pursuant to 52 Pa. Code, Sections 5.62 (b) and 5.101 (a) (1) and 5.101 (b):

1. Complainant has filed a complaint with the Commission requesting an order directing Columbia Gas to pay for alleged damages to his building by reason of water runoff sometime during "last years heavy rain".

2. Complainant contributes these damages to the existence of a gas transmission line line, which he surmises somehow contributed to the damage to his building.

3. This complaint should be dismissed because the proximate cause of damages to Complainant's building is a matter within the purview of a civil court which is accustomed to hearing such disputes and has the special expertise to decide such matters, not an administrative agency like the Commission that is charged with the particular responsibility of enforcing the provision of the Public Utility Code, which expertise requires a different more specialized knowledge and special expertise in the application of the Public Utility Code. Such expertise of the Commission does not include the resolution of factual disputes that concern issues of the proximate cause of damages to Complainant's property and the issues of whether there may have been contributory negligence on the part of the Complainant in constructing a building without sufficient provisions to accommodating the natural runoff of ground water. Such matters are within the special expertise of civil courts, which courts can afford Complainant a full and complete remedy by the hearing of his Complaint, including a jury trial if necessary.

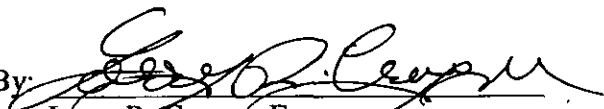
**Wherefore**, Columbia Gas moves that the Complaint in this proceeding be dismissed for the reason that the Complaint is in the nature of a request for monetary damages and requires factual determinations affecting possible liability of the parties, a liability that the Commission does not have the statutory power to adjudicate.

**New Matter  
Request For Telephonic Hearing**

Columbia Gas hereby requests that any hearings to be scheduled in this proceeding be conducted telephonically.

Respectfully submitted,

**DOCUMENT** COLUMBIA GAS OF PENNSYLVANIA, INC.  
**FOLDER**

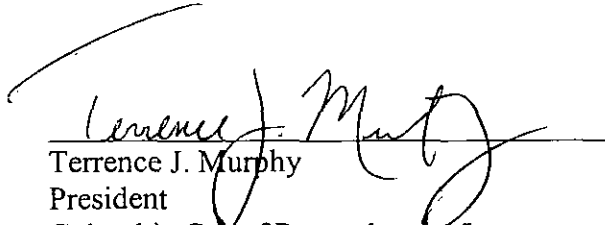
By:   
Larry R. Crayne, Esq.

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OCT 12 2005

**VERIFICATION**

I, Terrence J. Murphy, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information, and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: OCT 7, 2005

  
\_\_\_\_\_  
Terrence J. Murphy  
President  
Columbia Gas of Pennsylvania, Inc.

## Certificate of Service

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the participant, listed below, in accordance with the requirements of Sec. 1.54 (relating to service by a participant).

Nelson Heeter  
441 Technology Drive  
Canonsburg, PA 15317

Dated this 7<sup>th</sup> day of Oct, 2005



Larry R. Crayne  
238 Johnston Road  
Pittsburgh, PA 15241

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SECRETARY'S BUREAU

Counsel for  
Columbia Gas of Pennsylvania, Inc.