

**LARRY R. CRAYNE, PC**  
**Attorney at Law**

238 Johnston Road  
Pittsburgh, PA 15241

[lrcrayne@comcast.net](mailto:lrcrayne@comcast.net)

(412) 831-5462  
(412) 425-4029

---

ELECTRONICALLY FILED

November 7, 2016

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Frederick Altland v. Columbia Gas of Pennsylvania, Inc.**  
**Complaint Docket No. C-2016-2571973**

Dear Ms. Chiavetta:

Enclosed is an electronically filed copy of the Preliminary Objections of Columbia Gas of Pennsylvania, Inc. to the above-captioned Formal Complaint. A copy of the document has been served on the Complainant.

Sincerely,

  
Larry R. Crayne

cc: Frederick Altland  
958 East Market Street, Apt. 7  
York, PA 17403

**Commonwealth of Pennsylvania**

**Before the Pennsylvania Public Utility Commission**

In the Matter of:

Frederick Altland,  
Complainant,

Complaint Docket  
No. C-2016-2571973

VS.

Columbia Gas of Pennsylvania, Inc.,  
Respondent.

**Preliminary Objections**

**AND NOW** comes Respondent, Columbia Gas of Pennsylvania, Inc. (Columbia Gas), pursuant to 52 *Pa. Code*, Section 5.101 (a) (4), and files the following Preliminary Objections:

**A. Res Judicata**

1. Complainant has filed another formal complaint with the Commission in opposition to being billed in Therms rather than on a volumetric basis and is apparently again objecting to the payment of a Customer Charge.

2. Complainant has previously filed Formal Complaints at Dockets Numbers F-2012-2298618 and F-2013-2373993. Both Formal Complaints were in regard to the matters set forth in this Complaint.

3. The Formal Complaint at Docket Number F-2012-2298618 was in regard to Therm billing and the Customer Charge. The Complaint was denied by Initial Decision dated August 23, 2012 and became final without further Commission action. A Final Order dismissing the Complaint was entered on November 8, 2012.

4. The Formal Complaint at docket number F-2013-2373993 was in regard to the Customer Charge and the Distribution System Improvement Charge. The Complaint was dismissed by Initial Decision dated September 27, 2013 for legal insufficiency and became final without further Commission action. A Final Order dismissing the Complaint was entered on November 8, 2013.

5. Both the issue of Therm billing and a Customer Charge have been previously litigated in the referenced formal complaint proceedings previously filed by this Complainant

6. Respondent Columbia Gas respectfully petitions this Honorable Commission to dismiss this action as legally insufficient. Complainant's allegations have already been

adjudicated and are barred by *Res Judicata*. Therefore, Complainant fails to state a claim upon which relief can be granted. 52 Pa. Code, Section 5.101(a)(4).

7. For *Res Judicata* to be applicable, a party must demonstrate that the actions have four common elements: (1) identity of issues; (2) identity of the cause of action; (3) identity of the parties; and (4) identity of the capacity of the parties. *Day v. Volkswagenwerk Aktiengesellschaft*, 318 Pa. Superior Ct. 255, 474 A.2d 1313, 1316, 1317 (1983).

8. All four elements are met in this Complaint; (1) The issues are the same. The Complainant in this proceeding and the prior complaints was contesting, *inter alia*, Therm billing and the Customer Charge. (2) The cause of action is the same. Complainant in the earlier complaints challenged Therm billing and the imposition of a Customer Charge. Complainant now again challenges Therm billing and the imposition of the Customer Charge. (3) The parties are the same: Complainant and Columbia Gas. (4) Finally, the parties in both complaints are acting in the same capacity. Complainant was a customer then and is now a customer for natural gas utility service. Columbia Gas is a public utility.

### **B. Legal Insufficiency of Pleading**

9. Further, the ambiguous and unspecified assertions regarding the use of contractors and the nature of the work performed provide no specific basis for any belief that Columbia Gas is not providing adequate, efficient, safe and reasonable service and facilities to Complainant and the public.

10. Complainant has not demonstrated any standing or an interest to complain about the use of contractors to perform utility work and the nature of the work performed. The averments provide no specifics as to time, date or location regarding the ambiguous assertions regarding work performed by Columbia Gas or contractors, but instead list a number of unrelated and disjointed assertions regarding matters that are unrelated to the provision of utility service to Complainant. Consequently, the averments of this Complaint fail to allege a specific violation of the Public Utility Code, Commission regulations or the Columbia Gas filed and approved tariff and is, therefore, legally insufficient.

**Wherefore**, Columbia Gas is filing these Preliminary Objections requesting this Complaint be dismissed for the reason that the subject matters of this present Complaint have already been adjudicated and are barred by *Res Judicata*. 52 Pa. Code § 5.101(a)(4); *James S. Smith, Jr. v. PECO Energy Company* at Docket No. C-2010-2209072 (Commission Order entered September 22, 2011); *Brittany Vohrer v. PECO Energy Company* at Docket No. C-2012-2303471 (Commission Opinion and Order entered February 14, 2013); and *Shymar McBride v UGI Utilities, Inc.* at Docket No. C-2013-2391525 (Final Order entered March 20, 2014). Further, this Complaint should be summarily dismissed for legal insufficiency. Since no factual issue pertinent to the resolution of this Complaint exists, a hearing is unnecessary. The Respondent is entitled to judgment as a matter of law. Granting the Columbia Gas motion for dismissal of this Complaint is appropriate in these circumstances.

## Notice to Plead

To: Frederick Altland:

You are hereby notified to file a written response to the above Preliminary Objections within ten (10) days from service hereof or a judgment may be entered against you. The response must be mailed to the Secretary of the Public Utility Commission:


Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

A copy of your response must also be mailed to the undersigned.

Larry R. Crayne, PC  
Attorney at Law  
238 Johnston Road  
Pittsburgh, PA 15241

Respectfully submitted,

Columbia Gas of Pennsylvania, Inc.

By:   
Larry R. Crayne, Esq.

## VERIFICATION

I, Nicole M. Paloney, hereby state that the facts set forth above 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 made herein are made subject to the penalties of 18 Pa. C. S., Section 4904 (relating to unsworn falsification to authorities).

Date: Nov 7, 2016

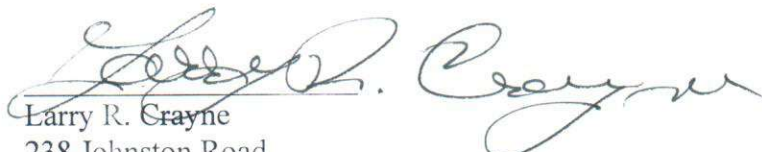
Nicole M. Paloney  
Nicole M. Paloney  
Director, Rates & Regulatory Affairs  
Columbia Gas of Pennsylvania, Inc.

## 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 (b) (1) (relating to service by a participant).

Frederick Altland  
958 East Market Street, Apt. 7  
York, PA 17403

Dated this 7<sup>th</sup> day of Nov, 2016

  
Larry R. Crayne  
238 Johnston Road  
Pittsburgh, PA 15241

Counsel for  
Columbia Gas of Pennsylvania, Inc.