

DOCKET NO.: C-20015964
RESPONDENT OR APPLICANT: COLUMBIA GAS OF PA., INC.
PARTY OR COMPLAINANT: SERALY, GARY J. & AMY L.

ENTRY TYPE	DATE	BUREAU	PERSONNEL
1 N	07/27/01	SEC	HENRY
FORMAL COMPLAINT OF GARY J & AMY L SERALY VS. COLUMBIA GAS COMPANY (TRANSMISS)			
2 N	08/03/01	SEC	HENRY
NOTICE OF COMPLAINT SENT TO RESPONDENT FOR ANSWER IN 20 DAYS			
3 N	09/06/01	SEC	FRISCIA
RESPONDENT FILED ANSWER, NEW MATTER & MOTION TO DISMISS COMPLAINT W/CERT OF SV			
4 N	09/13/01	SEC	FRISCIA
RESPONDENT FILED MOTION FOR ADMISSION PRO HAC VICE OF ATT THEODORE J GALLAGHER			
5 N	09/21/01	SEC	TFRISCIA
CALJ CHRISTIANSON INTERIM ORDER SETTING SETTLEMENT CONFERENCE ISSUED			
6 N	10/10/01	SEC	HENRY
GARY J. & AMY L. SERALY FILED AMENDED COMPLAINT			
7 N	10/10/01	SEC	HENRY
SEC LTR TO RESP ADVISING AMENDED COMPLAINT FILED-FILE ANS IF DESIRED IN 20 DYS			
8 N	02/15/02	SEC	FRISCIA
CALJ MEMO TO SEC-CASE IN MEDIATION PROCESS REVIEW; PROGRESS RPTS BEING MADE			
9 N	03/11/02	SEC	BENJAMIN
CALJ MEMO TO SEC-RPT SUBMITTED TO MEDIATION UNIT PER CALJ 9/21/02 INTERIM ORDR			
10 N	05/06/02	ALJ	GESOFF
INITIAL TELEPHONIC HEARING SCHEDULED FOR 5/16/02 CANCELLED			
11 N	03/29/02	SEC	FRISCIA
ALJ GESOFF PREHRG ORDER ISSUED-COMPLY W/CERTAIN RQMTS BEFORE 5/16/02 TEL HRG			
12 N	05/10/02	SEC	BENJAMIN
COMPLAINANT FILED ANSWER TO RESPONDENTS MOTION TO DISMISS W/CERT OF SERVICE			
13 N	05/20/02	SEC	ZEIDERS
ALJ GESOFF'S INITIAL DECISION SERVED TO PARTIES			
14 N	06/10/02	COR	ZEIDERS
EXCEPTIONS TO BE FILED			
15 N	06/20/02	COR	ZEIDERS
REPLY EXCEPTIONS TO BE FILED			
16 N	04/18/02	SEC	TFRISCIA
RESP FILED ANSWER, MOTION TO DISMISS AND MEMORANDUM OF LAW IN SUPPORT W/CERT			
17 N	05/14/02	SEC	ZEIDERS
COLUMBIA GAS TRANSMISSION CORP FLD REPLY IN SUPPORT OF MOT TO DISMISS W/CERT			
18 N	06/04/02	SEC	BENJAMIN
COMMISSIONERS FILED REVIEW FORMS - NO REVIEW REQUESTED			
19 N	03/26/02	SEC	TFRISCIA
ALJ GESOFF FIRST INTERIM ORDER ISSUED			
20 N	08/16/02	SEC	MOTTER
SEC MEMO TO ALJ-NEITHER EXCEPTIONS NOR REQUESTS FOR REVIEW HAVE BEEN RECEIVED			
21 N	08/27/02	SEC	PATRICK
FINAL ORDER ENTERED 8/27/02 ISSUED (SEE DOCS 349492 FOR CONTENTS OF ORDER)			

CAPTION SHEET

CASE MANAGEMENT SYSTEM

1. REPORT DATE: 00/00/00 :
2. BUREAU: ALJ :
3. SECTION(S): : 4. PUBLIC MEETING DATE:
5. APPROVED BY: : 00/00/00
DIRECTOR: :
SUPERVISOR: :
6. PERSON IN CHARGE: : 7. DATE FILED: 07/27/01
8. DOCKET NO: C-20015964 : 9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: SERALY, GARY J. & AMY L.

RESPONDENT/APPLICANT: COLUMBIA GAS OF PA., INC.

COMP/APP COUNTY: WASHINGTON

UTILITY CODE: 120700

ALLEGATION OR SUBJECT

COMPLAINANT STATES THERE IS A 2 INCH GAS LINE RUNNING ALONG VANCAL ROAD. THE SERALYS HAVE REQUESTED, APPLIED FOR AND BEEN DENIED NATURAL GAS AT THEIR HOME. THE SERALYS INITIALLY APPLIED FOR GAS SERVICE IN JUNE, 1990 AND WERE DENIED. THEY SUBSEQUENTLY APPLIED FOR GAS SERVICE IN OCTOBER, 2000 AND WERE DENIED. SINCE THE TIME OF THEIR ORIGINAL REQUEST FOR NATURAL GAS SERVICE AND THEIR MOST RECENT DENIAL, SEVERAL NEIGHBORING HOUSEHOLDS HAVE ACQUIRED NATURAL GAS SERVICE FROM THIS 2 INCH GAS LINE. NEIGHBORS ON BOTH SIDES OF THE SERALYS RECEIVE NATURAL GAS SERVICE. ONE OF THOSE NEIGHBORS HAS A SISTER WHO IS EMPLOYED BY COLUMBIA GAS TRANSMISSION. ALSO, THE NEIGHBOR ACROSS THE ROAD WAS GRANTED NATURAL GAS SERVICE FROM THIS GAS LINE IN 1995. THERE IS NO REASONABLE BASIS WHY THE SERALYS SHOULD NOT ENJOY NATURAL GAS SERVICE. THE SERALY'S WANT NATURAL GAS SERVICE PROVIDED TO THEIR RESIDENCE.

DOCUMENT
FOLDER

DOCKETED
AUG 03 2001

ORIGINAL

RECEIVED

JUL 27 2001
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Formal Complaint Form
Pennsylvania Public Utility Commission

C - 20015964
120700

Please Print: (you may also type your answers directly onto the form as it appears on your screen)

1. Your name, mailing address and telephone number.

Name Gary J. and Amy L. Seraly

Street/P.O.Box 40 Vaneal Road Apt # N/A

City Washington State PA Zip 15301

County Washington Area Code/Home Phone (724) 222-2082

Area Code/Work Phone (724) 229-5394

2. Name of company your complaint concerns Columbia Gas Transmission

3. What is your complaint? (Use additional paper if need more space).

There is a 2 inch gas line running along Vaneal Road. The Seralys have requested, applied for and been denied natural gas service at their home. The Seralys initially applied for gas service in June, 1990 and were denied. They subsequently applied for gas service again in October, 2000 and were denied. Since the time of their original request for natural gas service and their most recent denial, several neighboring households have acquired natural gas service from this 2 inch gas line. Neighbors on both sides of the Seralys receive natural gas service. One of those neighbors has a sister who is employed by Columbia Gas Transmission. Also, the neighbor across the road was granted natural gas service from this gas line in 1995. There is no reasonable basis why the Seralys should not enjoy natural gas service.

4. What do you want the Public Utility Commission to do about your complaint?
(Use additional paper if need more space).

The Seralys want natural gas service provided to their residence.

5. You must sign and date your complaint below.

The information I have placed on this form is true and correct to the best of my knowledge. I understand that I could be punished under Pennsylvania State Law if I purposely give false information.

Gary J. Seraly
Signature

7/26/01
Date

Continued on next page

65

6. If you are represented by a lawyer you must provide your lawyer's name, address and telephone number.

Lawyer's Name Christopher E. Miles, Esquire

Street 330 East Beau Street

City Washington State PA Zip 15301

Area Code/Phone Number (724) 228-1138

Mail to:
Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

For more information, please contact the Secretary's Bureau at 717-772-7777.

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

DATE SERVED: AUGUST 3, 2001

C-20015964

LAWRENCE NOWICKI
COLUMBIA GAS OF PA INC
950 SMILE WAY
YORK PA 17404

Dear Sir/Madam:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by GARY J & AMY L SERALY. To defend yourself against the claims stated in the following pages, you must act within twenty (20) days by filing in writing with the Commission, either personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days.

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

DOCUMENT
FOLDER

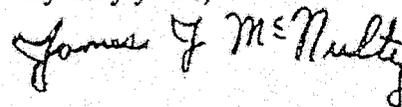
AUGUST 3, 2001

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,

A handwritten signature in cursive script that reads "James J. McNulty".

James J. McNulty
Secretary

JH

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: AUGUST 3, 2001

GARY J & AMY L SERALY
Complainant

VS.

COLUMBIA GAS OF PENNSYLVANIA,
INC.

Respondent

Complaint Docket
No: C-20015964

DOCUMENT
FOLDER
DOCKETED

AUG 03 2001

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: COLUMBIA GAS OF PENNSYLVANIA, INC.

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17120, an answer (original and two copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

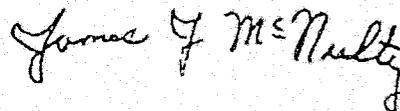
2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes

a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.



James J. McNulty
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

ORIGINAL

200 Civic Center Drive
Columbus, OH 43215
(614) 460.6000
Fax: (614) 460.6986

VIA OVERNIGHT COURIER

DOCUMENT
FOLDER

September 5, 2001

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

RECEIVED

SEP 06 2001

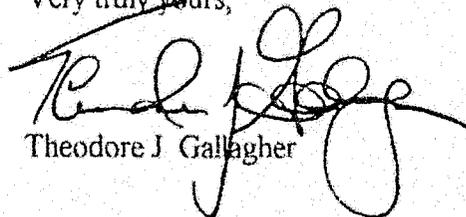
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re Gary J. & Amy L. Seraly v. Columbia Gas of Pennsylvania, Inc
Complaint Docket No C-20015964

Dear Mr McNulty

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

Very truly yours,


Theodore J. Gallagher

enclosures

KJK

cc Gary J. & Amy L. Seraly
Christopher E. Miles, Esq

71

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GARY J & AMY L. SERALY)

Complainant,)

v)

COLUMBIA GAS OF PENNSYLVANIA, INC.)

Respondent.)

Complaint Docket
No. C-20015964

RECEIVED

ANSWER TO
FORMAL COMPLAINT

SEP 06 2001
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

NOW comes Respondent, Columbia Gas of Pennsylvania Inc. (Columbia Gas of PA),

and states and avers as follows:

DOCUMENT
FOLDER

DOCKETED
SEP 07 2001

Columbia Gas admits the averment in Paragraph 1 of the Complaint

2 Paragraph 2 of the Complaint does not require a response. However, it appears that Columbia Gas has been served with a copy of the Complaint in error, since the Complainant has identified Columbia Gas Transmission (Columbia Transmission), an affiliate of Columbia Gas of PA, as the Respondent. Paragraph 2 of the Complaint does not name Columbia Gas of PA as a Respondent.

3 None of the averments in Paragraph 3 of the Complaint identify an act done or omitted to be done by Columbia Gas of PA in violation or claimed violation of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission and, therefore, require no response by this Respondent. To the extent that any averments in Paragraph 3 of

the Complaint could be interpreted as an allegation regarding any act or omission of Columbia Gas of PA, Columbia Gas of PA denies same.

4. Paragraph 4 of the Complaint deals with the relief Complainant seeks, to which no answer is required.

WHEREFORE, Columbia respectfully requests that the Commission issue an Order dismissing this Formal Complaint, with prejudice.

PRELIMINARY
MOTION TO DISMISS

Columbia Gas of PA moves the Commission, pursuant to §§ 5 101(a)(1) and 5 101(a)(3) of the Commission's Rules on Formal Proceedings, 52 Pa. Code §§ 5 101(a)(1), 5 101(a)(3), for an Order dismissing the Formal Complaint of Gary J. & Amy L. Seraly for the reason that the Complaint, on its face, fails to invoke the Commission's jurisdiction and it is insufficient as to substance. According to Section 701 of the Pennsylvania Consolidated Statutes, 66 Pa. § 701,

"any corporation having an interest in the subject matter may complain in writing, setting forth any act or thing done or omitted to be done *by any public utility* in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission (Emphasis added)(See also 52 Pa. Code § 5 21)

In their Formal Complaint, Complainants have not alleged any act or failure to act by Columbia of PA that would serve as the basis for the Commission's exercise of jurisdiction in this matter. A perusal of the Complaint in this matter reveals that the Complainant is taking issue with being unable to tap into Columbia Transmission's facilities. As such, this Complaint raises non-

jurisdictional issues against a non-jurisdictional entity. Accordingly, the Complaint should be dismissed.

Even if the Complaint in this matter passes jurisdictional muster in terms of the issues presented, as to Columbia Gas of PA the Complaint remains insufficient as to substance. That is, the Complainant has not alleged any act or failure to act by Columbia Gas of PA, whether jurisdictional or not. Lacking substantial allegations against Columbia Gas of PA, the Complaint against Columbia Gas of PA should be dismissed.

Dismissal of the present matter is supported by *Michael & Regina Livelli v. Columbia Gas of Pennsylvania, Inc.*, Docket No. C-00004577 (Initial Decision, dated January 24, 2001, and Final Order, entered May 14, 2001 attached hereto). In *Livelli*, the complainants filed a formal complaint form which identified the Respondents as Columbia Service Partners and Columbia Energy Group, and which contained no allegation regarding any act or omission attributable to Columbia Gas of Pennsylvania. Nonetheless, the complaint was served upon Columbia Gas of Pennsylvania, styled as *Michael & Regina Livelli v. Columbia Gas of Pennsylvania, Inc.* In response, Columbia Gas filed a motion to dismiss the complaint against it for lack of subject matter jurisdiction and as being insufficient as to substance. The Commission granted the motion, both for lack of jurisdiction and for insufficiency as to substance. Based upon *Livelli*, the present case should be dismissed because it fails to allege any act or thing done or omitted to be done by a public utility in violation, or claimed violation, of any law which the Commission has jurisdiction to administer, or of any regulation or order of the Commission.

66 Pa. C.S. § 701.

WHEREFORE, Respondent, Columbia Gas of Pennsylvania, Inc requests that the Commission issue an Order dismissing the Formal Complaint of Gary J. & Amy L. Seraly for lack of jurisdiction and/or for the reason that it is insufficient as to substance.

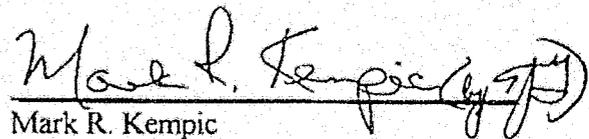
NEW MATTER
REQUEST FOR TELEPHONIC HEARING

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

Respectfully submitted,

COLUMBIA GAS OF PENNSYLVANIA, INC

By



Mark R. Kempic
Attorney

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Michael & Regina Livelli

v.

Columbia Gas of Pennsylvania, Inc.

: Docket No.
: C-00004577
:
:
:

RECEIVED

INITIAL DECISION

Before
Robert P. Meehan
Administrative Law Judge

SEP 06 2001
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

This Initial Decision grants the motion of Columbia Gas of Pennsylvania, Inc., and dismisses the complaint of Michael & Regina Livelli for lack of jurisdiction and being insufficient as to substance.

The complaint was filed on December 15, 2000. Paragraph 1 of the complaint identifies the complainant as "Regina Livelli", and the signature on the complaint is in the name of Regina Livelli. Paragraph 2 of the complaint identifies the company the complaint concerns as "Columbia Service Partners a Columbia Energy Group Co." Attached to the complaint is the copy of a letter dated December 14, 2000, addressed to the Secretary of the Commission, which letter is intended as the statement of the complaint under Paragraph 3. The names of Regina & Michael Livelli appear at the end of this letter. Upon the filing of the complaint, it was captioned as "Michael Livelli v. Columbia Gas of Pennsylvania, Inc." On December 27, 2000, Columbia Gas filed an answer and new matter, in the nature of a motion to dismiss. In its pleading, Columbia Gas captioned the case as "Regina Livelli v. Columbia Gas of Pennsylvania, Inc." I am using the names of both Michael and Regina Livelli in the caption of this decision so as to be sure that this entire proceeding is concluded.

In the complaint and attached letter, Mr. & Mrs. Livelli allege that they are the owners of a property in McMurray, Pennsylvania, which they rent to tenants and that the

utilities are in the name of the tenants. They further allege that in February of 1999, they purchased a gas line protection plan for the McMurray rental property from Columbia Service Partners, and arranged to make single, annual premiums for this plan. It is also alleged that in November of 1999, the tenant smelled gas outside the front of the McMurray rental property. However, Columbia Gas did not find any gas leaks. They further allege that in July of 2000, Michael Livelli and a "lawn helper" both smelled gas in the front yard of the McMurray rental property. Columbia Gas did find a gas leak and turned off the gas. They also allege that they then called Columbia Service Partners and were informed that the policy had expired on February 28, 2000, but that they had not received any bills or cancellation notices. Mr. & Mrs. Livelli also allege that they paid \$757.79 to have the gas line repaired, and are requesting that Columbia Service Partners be required to reimburse them the cost of the gas line repairs.

In its motion to dismiss, Columbia Gas notes that the issue in the complaint pertains to the alleged cancellation of a gas line protection program administered by Columbia Service Partners. Columbia Gas asserts that this is a non-jurisdictional issue involving a non-jurisdictional entity. Accordingly, Columbia Gas requests that the complaint be dismissed for lack of jurisdiction. In the alternative, Columbia Gas states that even if it should somehow be determined that the Commission has the jurisdiction to adjudicate the issue, Mr. & Mrs. Livelli have not made any allegation of any act or failure to act on the part of Columbia Gas. It is Columbia's position that the complaint should be dismissed because the complaint is insufficient as to substance.

Section 5.101 of the Commission's regulations, 52 Pa. Code §5.101, pertaining to the filing of preliminary motions, provides, in pertinent part:

- (a) A preliminary motion is available to participants. The preliminary motion shall state specifically the grounds relied upon, the standing of the party and shall be limited to the following:
 - (1) A motion questioning the jurisdiction of the Commission.
* * *
 - (3) A motion to strike a pleading that is insufficient as to substance, that does not indicate on its face the standing of the party to participate in the proceeding or that fails to join an indispensable party.

The filing of preliminary motions before the Commission is similar or analogous to the filing of preliminary objections or demurrers in Pennsylvania civil practice. See, Rules 1017 and 1028, Pennsylvania Rules of Civil Procedure. Equitable Small Transportation Intervenor v. Equitable Gas Company, 1994 Pa. PUC LEXIS 69, Docket No. C-00935435 (July 19, 1994). The Pennsylvania Supreme Court has held that cases should be dismissed on preliminary objections only when dismissal is clearly warranted and free from doubt. Interstate Traveller Services v. Commonwealth, Department of Environmental Resources, 486 Pa. 536, 406 A.2d 1020 (1979). The party filing the preliminary motion may not rely on its own factual assertions but must accept, for the purpose of disposing of the motion, all well-pleaded material facts of the other party as well as inferences fairly deducible from such facts. County of Allegheny v. Commonwealth of Pennsylvania, 507 Pa. 360, 490 A.2d 402 (1985); Commonwealth of Pennsylvania v. The Bell Telephone Company of Pennsylvania, 121 Pa. Commonwealth Ct. 642, 551 A.2d 602 (1988). The motion is to be granted only if the moving party prevails as a matter of law. Rok v. Flaherty, 106 Pa. Commonwealth Ct. 570, 527 A.2d 211 (1985).

Section 701 of the Code, 66 Pa. C.S. §701, which pertains to the filing of complaints before the Commission, provides, in pertinent part:

[A]ny person...having an interest in subject matter...may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission. (Emphasis added.)

A reading of the complaint filed by Mr. & Mrs. Livelli clearly establishes that it has not been filed against Columbia Gas, which is a public utility. Rather, they complain about the actions of Columbia Service Partners, which is not a public utility. Additionally, the contents of their letter, attached to the complaint, do not constitute an allegation that the acts of Columbia Service Partners complained of, even if true, are a violation of any law the Commission has jurisdiction to administer, or a violation of any regulation or order of the Commission, or a claimed violation of a law the Commission has jurisdiction to administer, or a claimed violation of any regulation or order of the Commission. Lastly, there is no allegation that Columbia Gas has either acted or failed to act in violation of any law the

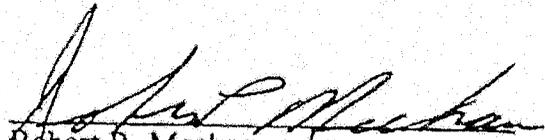
Commission has the jurisdiction to administer or in violation or claimed violation of any regulation or order of the Commission.

It is my opinion that the position of Columbia Gas is correct, that it is entitled to prevail, as a matter of law, that its preliminary motion should be granted, and that the complaint should be dismissed.

ORDER

In consideration of the foregoing, IT IS ORDERED THAT:

1. The preliminary motion of Columbia Gas of Pennsylvania, Inc., to dismiss the complaint filed against it by Michael & Regina Livelli, at Docket No. C-00004577, for lack of jurisdiction, is granted.
2. The complaint of Michael & Regina Livelli against Columbia Gas of Pennsylvania, Inc., at Docket No. C-00004577, is dismissed for lack of jurisdiction.
3. The preliminary motion of Columbia Gas of Pennsylvania, Inc., to dismiss the complaint filed against it by Michael & Regina Livelli, at Docket No. C-00004577, for being insufficient as to substance, is granted.
4. The complaint of Michael & Regina Livelli against Columbia Gas of Pennsylvania, Inc., at Docket No. C-00004577, is dismissed for being insufficient as to substance.
5. The telephonic hearing scheduled to be held in this case on Tuesday, March 13, 2001, at 10:00 a.m., is cancelled.


Robert P. Meehan
Administrative Law Judge

Dated: January 24, 2001

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Michael & Regina Livelli

v

C-00004577

Columbia Gas of Pennsylvania, Inc.

F I N A L O R D E R

In accordance with the provisions of Section 332(h) of the Public Utility Code, 66 Pa. C.S. §332(h), the decision of Administrative Law Judge Robert P. Meehan dated January 24, 2001, has become final without further Commission action; THEREFORE,

IT IS ORDERED:

1. The preliminary motion of Columbia Gas of Pennsylvania, Inc., to dismiss the complaint filed against it by Michael & Regina Livelli, at Docket No. C-00004577, for lack of jurisdiction, is granted.

2. The complaint of Michael & Regina Livelli against Columbia Gas of Pennsylvania, Inc., at Docket No. C-00004577, is dismissed for lack of jurisdiction.

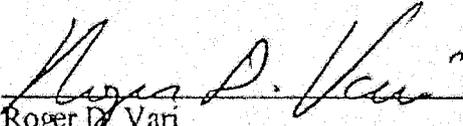
3. The preliminary motion of Columbia Gas of Pennsylvania, Inc., to dismiss the complaint filed against it by Michael & Regina Livelli, at Docket No. C-00004577, for being insufficient as to substance, is granted.

4. The complaint of Michael & Regina Livelli against Columbia Gas of Pennsylvania, Inc., at Docket No. C-00004577, is dismissed for being insufficient as to substance.

VERIFICATION

I, Roger D. Vari, 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: 09-05-01



Roger D. Vari
Vice President & Treasurer
Columbia Gas of Pennsylvania, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants, listed below, in accordance with the requirements of § 1 54 (relating to service by a participant).

Gary J. & Amy L. Seraly
40 Vaneal Road
Washington, PA 15301

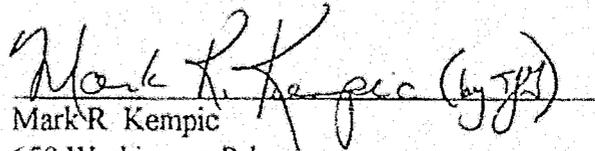
Christopher E Miles, Esq
330 East Beau Street
Washington, PA 15301

RECEIVED

SEP 06 2001

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dated this 5th day of September, 2001.


Mark R. Kempic
650 Washington Rd.
Pittsburgh, PA 15228
(412) 527-7142

Counsel for
Columbia Gas of Pennsylvania, Inc.

Energy Distribution Group Legal

ORIGINAL RECEIVED

650 Washington Road
Pittsburgh PA 15228
Fax: (412) 572-7162

September 13, 2001

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

SEP 13 2001
PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Gary J. and Amy L. Seraly v. Columbia Gas of Pennsylvania, Inc.
Complaint Docket No. C-20015964

Dear Mr. McNulty:

Enclosed are an original and four copies of Columbia Gas of Pennsylvania, Inc.'s Motion for Admission *Pro Hac Vice*. Please file the original and three copies and return a file stamped copy to me in the envelope provided for your convenience. A copy of the document has been served on the complainant.

**DOCUMENT
FOLDER**

Very truly yours,



Mark R. Kempic
Senior Attorney

REP

enclosures

cc: Gary J. and Amy L. Seraly
40 Vaneal Road
Washington, PA 15301

93

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

GARY J. & AMY L. SERALY)
)
 Complainant,)
)
 v)
)
 COLUMBIA GAS OF PENNSYLVANIA, INC)
)
 Respondent.)

Complaint Docket
No. C-2001-5964
RECEIVED

SEP 15 2001

MOTION FOR ADMISSION PRO HAC VICE PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Mark R Kempic, Esquire, counsel for Respondent in the above-captioned matter, moves the Commission for admission of Theodore J. Gallagher, Esquire, *pro hac vice* on behalf of Respondent, and in support thereof avers as follows

- 1 This is a formal complaint filed by or on behalf of Complainant
- 2 I am an attorney-at-law of the Commonwealth of Pennsylvania and I serve as Staff Attorney for Respondent, Columbia Gas of Pennsylvania, Inc.
- 3 Attached hereto as Exhibit "A" is an Affidavit from Theodore J. Gallagher, Esquire, an attorney employed by Columbia Gas of Ohio, Inc., an affiliate of the Respondent, confirming that Theodore J. Gallagher is intimately familiar with the subject matter of the pending action and that the Respondent desires Theodore J. Gallagher to appear on its behalf in this proceeding
- 4 Theodore J. Gallagher is an attorney-at-law admitted to practice before the Bar of the Supreme Court of Ohio.
- 5 I am acquainted with Theodore J. Gallagher and can attest to his diligence, ethical standards, and his willingness to abide by the Disciplinary Rules of the Supreme Court of the Commonwealth of Pennsylvania. If admitted to practice before this Commission *pro hac vice*, Theodore J. Gallagher will carry out his obligations ably and in accordance with the standards expected by this Commission.

DOCUMENT
FOLDER

Wherefore, Mark R. Kempic, Esquire requests that the Commission enter an Order admitting Theodore J. Gallagher, Esquire *pro hac vice* on behalf of Columbia Gas of Pennsylvania, Inc.

DOCKETED
SEP 17 2001

Mark Kempic
Mark R. Kempic
Attorney for Theodore J. Gallagher

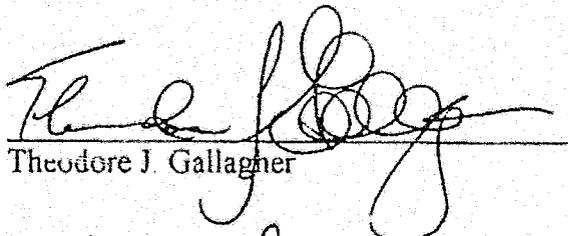
AFFIDAVIT

State of Ohio }
 }
County of Franklin }

SS

Theodore J. Gallagher, being duly sworn according to law, deposes and says.

- 1 I am an attorney and member in good standing of the Bar of the Supreme Court of Ohio, and am employed by Columbia Gas of Ohio, Inc., an affiliate of the Respondent.
- 2 I am intimately familiar with the subject matter of this action and have been requested by the Respondent to represent it in connection with this proceeding. I respectfully submit that this constitutes good cause to warrant my admission to practice before this Commission *pro hac vice*.
- 3 I submit this Affidavit in support of the Motion for Admission *pro hac vice* and respectfully request that it be granted in its entirety.


Theodore J. Gallagher

SWORN TO AND SUBSCRIBED before me this 10th day of September, 2001


Notary Public

MARILYN G. HEICHER
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 08-03-04

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

GARY J. & AMY L. SERALY)	
)	
Complainant,)	
)	
v)	Complaint Docket
)	No. C-20015964
COLUMBIA GAS OF PENNSYLVANIA, INC.)	
)	
Respondent)	

ORDER

AND NOW, this _____ day of _____, 2001, this matter having come before the Commission on application of Theodore J. Gallagher, Esquire, attorney for Respondent, and the Commission having reviewed the moving papers and Affidavit of Theodore J. Gallagher, Esquire and for good cause shown:

IT IS ORDERED that the Motion for admission *Pro Hac Vice* of Mark R. Kempic, Esquire shall be and hereby is granted.

Presiding Officer