



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

June 8, 2021

**Via Electronic Filing**

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

Re: Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement v.  
Columbia Gas of PA, Inc.  
Docket No. M-2021-3005572  
**Joint Petition for Approval of Settlement**

Dear Secretary Chiavetta:

Enclosed for electronic filing on behalf of the Bureau of Investigation and Enforcement (I&E) is the **Joint Petition for Approval of Settlement** in the above-referenced proceeding. Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Matthew C. Fallings'. The signature is fluid and cursive, with the first name 'Matthew' being particularly prominent.

Matthew C. Fallings  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 326896  
(717) 783-6150  
[mfallings@pa.gov](mailto:mfallings@pa.gov)

MCF/jfm  
Enclosures

cc: Office of Special Assistants (*via email – Word version*)  
Michael L. Swindler, Deputy Chief Prosecutor, I&E (*via email only*)  
As per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No.: M-2021-3005572
	:	
Columbia Gas of PA, Inc.	:	
Respondent	:	

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**JOINT PETITION FOR APPROVAL OF SETTLEMENT**

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**TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:**

Pursuant to 52 Pa. Code §§ 5.41, 5.232 and 3.113(b)(3), the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”) and Columbia Gas of Pennsylvania, Inc. (“Columbia,” “Columbia Gas,” or “Company”) hereby submit this Joint Petition for Approval of Settlement (“Settlement” or “Settlement Agreement”) to resolve all issues related to the informal investigation conducted by the I&E Safety Division regarding two separate overpressurization incidents on Columbia’s system that occurred in Rimersburg, PA between May 16 and June 12, 2018 in and Fayetteville, PA between January 9 and 12, 2018.

As part of this Settlement Agreement, I&E and Columbia (hereinafter referred to collectively as the “Parties”) respectfully request that the Commission enter a Final Opinion and Order approving the Settlement, without modification. Proposed Ordering Paragraphs are attached as Appendix A and I&E Statement in Support is attached as Appendix B. The Statement in Support of the Settlement expressing the views Columbia is filed concomitantly herewith.

## I. INTRODUCTION

1. The Parties to this Settlement Agreement are the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, by its prosecuting attorneys, 400 North Street, Commonwealth Keystone Building, Harrisburg, PA 17120, and Columbia Gas of Pennsylvania, Inc., with a principal place of business of 121 Champion Way, Suite 100, Canonsburg, PA 15317.

2. The Pennsylvania Public Utility Commission is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within this Commonwealth, as well as other entities subject to its jurisdiction, pursuant to the Public Utility Code ("Code"), 66 Pa. C.S. §§ 101, *et seq.*

3. I&E is the entity established to prosecute complaints against public utilities and other entities subject to the Commission's jurisdiction pursuant to 66 Pa. C.S. § 308.2(a)(11); *see also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011)(delegating authority to initiate proceedings that are prosecutory in nature to I&E).

4. Section 501(a) of the Code, 66 Pa. C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Code.

5. Section 701 of the Code, 66 Pa. C.S. § 701, authorizes the Commission, *inter alia*, to hear and determine complaints alleging a violation of any law, regulation, or order that the Commission has jurisdiction to administer.

6. Section 3301(c) of the Code, 66 Pa.C.S. § 3301(c), which is specific to gas pipeline safety violations, authorizes the Commission to impose civil penalties on any person

or corporation, defined as a public utility, who violates any provisions of the Code or any regulation or order issued thereunder governing the safety of pipeline or conduit facilities in the transportation of natural gas, flammable gas, or gas which is toxic or corrosive. Section 3301(c) further provides that a civil penalty of up to Two Hundred Thousand Dollars (\$200,000) per violation for each day that the violation persists may be imposed, except that for any related series of violations, the maximum civil penalty shall not exceed Two Million Dollars (\$2,000,000) or the penalty amount provided under Federal pipeline safety laws, whichever is greater.

7. Civil penalties for violations of Federal pipeline safety laws and regulations are adjusted annually to account for changes in inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74, § 701, 129 Stat. 599, 28 U.S.C. § 2461 note (Nov. 2, 2015) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990). The most pertinent adjustment made by the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration ("PHMSA") occurred in April of 2017 and revises the maximum civil penalty to Two Hundred Nine Thousand, Two Dollars (\$209,002) for each violation for each day the violation continues, with a maximum penalty not to exceed Two Million, Ninety Thousand, Twenty-Two Dollars (\$2,090,022) for a related series of violations. 82 Fed. Reg. 19325 (April 27, 2017).

8. Pursuant to Section 59.33(b) of the Commission's regulations, 52 Pa. Code § 59.33(b), I&E's Safety Division has the authority to enforce Federal pipeline safety laws and regulations set forth in 49 U.S.C.A. §§ 60101-60503 and as implemented at 49 CFR Parts 191-193, 195 and 199. The federal pipeline safety laws and regulations proscribe the

minimum safety standards for all natural gas and hazardous liquid public utilities in the Commonwealth.

9. Columbia is a “public utility” as that term is defined at 66 Pa.C.S. § 102,<sup>1</sup> as it is engaged in providing public utility service as a natural gas distribution company (“NGDC”) to the public for compensation. Columbia serves more than 440,000 customers in 26 counties in western, central, and south-central Pennsylvania.

10. Columbia, in providing natural gas distribution service to the public for compensation, is subject to the power and authority of this Commission pursuant to Section 501(c) of the Code, 66 Pa.C.S. § 501(c), which requires a public utility to comply with Commission regulations and orders, including Federal pipeline safety laws and regulations.

11. Pursuant to the provisions of the applicable Commonwealth and Federal statutes and regulations, the Commission has jurisdiction over the subject matter and the alleged actions of Columbia related thereto.

12. This matter involves allegations related to overpressurization events which occurred in Columbia’s distribution systems in Rimersburg, Pennsylvania and Fayetteville, Pennsylvania.

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<sup>1</sup> At 66 Pa.C.S. § 102, “Public utility” is defined under that term at subsection (1)(i) as:  
(1) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for:  
(i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation.

13. As a result of successful negotiations between I&E and Columbia, the parties have reached an agreement on an appropriate outcome to the informal investigation as encouraged by the Commission's policy to promote settlements. *See* 52 Pa. Code § 5.231. The duly authorized parties executing this Settlement Agreement agree to the settlement terms set forth herein and urge the Commission to approve the Settlement as submitted as being in the public interest.

14. I&E initiated an informal investigation of Columbia on February 8, 2019, as a result of information provided by the Commission's Safety Division relating to allegations of overpressurization events that occurred in Columbia's Fayetteville and Rimersburg systems.

15. The I&E Safety Division conducted multiple inspections of the sites, and interviews with Columbia employees.

16. As part of its investigation, I&E served one set of Data Requests to Columbia on February 8, 2019, to which Columbia responded on March 8, 2019.

The results of I&E's investigation, which included a review of the Company's responses to I&E's data requests, formed the basis for the instant Settlement Agreement.

## **II. I&E's Informal Investigation**

### **A. Distribution System in Rimersburg, Pennsylvania**

17. The first system, Rimersburg, serves 420 active customers, and was overpressurized daily for nearly a month, from May 16, 2018, to June 12, 2018, when the bypass

valve at Regulator Station 4046 allowed the system to over-pressure 13 inches of water column above the maximum allowable operating pressure (“MAOP”).<sup>2</sup>

18. It was determined that this overpressure occurred because dried grease on the bypass valve to the main pipeline prevented the valve from sealing when a technician had applied new grease to the valve.<sup>3</sup>

## **B. Distribution System in Fayetteville, Pennsylvania**

19. The second system in Fayetteville serves 966 active customers. I&E found that between January 9, 2018 and January 12, 2018, the Ausherman Regulator Station, R-

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<sup>2</sup> On June 12, 2018, a Columbia Gas regulator technician discovered that the Rimersburg system recently underwent an overpressure event while changing the pressure charts at the Cherry Run Regulator Station R-4046. The Station R-4046 pressure recording chart showed that from May 16, 2018, to June 12, 2018, the pipeline system, 37022302, had daily spikes up to 27 inches of water column. This system was a two-way feed with regulator stations at each end, and had a MAOP of 14 inches of water column. Station R-4046 had an inlet MAOP of 125 pounds per square inch gauge (“psig”) and outlet MAOP of 110 psig.

Columbia Gas technicians then arrived at the station, installed pressure gauges, deactivated all affected customer meters, and discovered 13 meter sets were affected along the approximately 3,000 feet of main line. The technicians verified that when they reactivated the system, a blockage was detected in the main line.

I&E Pipeline Safety inspectors later arrived at the station to witness Columbia Gas technicians locate the water blockage in the main line. The technicians detected the water blockage in the bare steel main line, found the line to be corroded, and discovered a water leak after an attempt to repair the line. Columbia Gas identified this as a Grade 2 leak. Columbia Gas then installed a drip tank on this line, and verified that the overpressure events did not damage any inside house lines or appliances. The I&E Pipeline Safety inspectors also ordered Columbia Gas to perform leak surveys every six hours on the line. On June 15, 2018, Columbia Gas installed numerous clamps on the line to repair the leaks.

<sup>3</sup> On June 19, 2018, I&E Pipeline Safety inspectors witnessed this valve being tested by Columbia Gas technicians. The valve was a 2” Nordstrom Valve Fix 143 Number 5265. The valve testing took place at the Company’s York location, with a Company employee performing the test by connecting two pieces of pipe to either side of the valve and then putting air pressure on a side to indicate if air would leak. The Columbia Gas technician put 52 psig in the pipe and it immediately leaked through the valve. Columbia Gas believes that during the routine inspection, when the valve was turned and regreased, new grease failed to enter the valve which caused it not to form a tight seal. After a second test, the valve did not leak any further air pressure.

3523, located in Fayetteville, was over-pressurized because a technician failed to fully close the bypass valve after the valve had been opened to address a supply shortage.<sup>4</sup>

20. During the three (3) overpressure events, the open bypass valve allowed upstream pressure to the R-3523 Station to bypass the regulator set and cause the system to exceed the MAOP of 45 psig, reaching a pressure of 107 psig, which is 160% of the MAOP.

I&E understands that three (3) overpressure events occurred on the following occasions:

- a. On January 9, 2018 the pressure exceeded the MAOP of 45 psig for two hours, reaching approximately 77 psig.
- b. On January 10, 2018, the pressure exceeded the MAOP of 45 psig for two hours, reaching approximately 52 psig.
- c. From January 11, 2018 to January 12, 2018, the pressure exceeded the MAOP of 45 psig for twenty-one hours, reaching approximately 107 psig.

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<sup>4</sup> On January 2, 2018, Columbia Gas detected low gas flow from the supplier, Texas Eastern, in the Fayetteville gas system. Columbia Gas responded and increased the flow by manually operating the bypass valve of this station to the supply the system.

On January 12, 2018, a Columbia Gas technician determined that the system was overpressurized when repairing a meter that was struck by a vehicle. I&E Pipeline Safety inspectors were contacted by a Columbia Gas' Compliance Manager and notified of an overpressure in the Fayetteville area system of the Greencastle shop. Columbia Gas personnel informed the PUC inspectors of the overpressure, reported that the system was a two-way feed, and that no outages were reported due to the overpressure.

The I&E Pipeline Safety inspectors alongside Columbia Gas personnel then inspected Station R-3523, and reviewed the pressure chart. It was discovered that when the chart was previously changed, the chart recorded the inlet pressure in the system which caused the time to be marked incorrectly, and required the chart to be read several hours ahead of time. The R-3523 Station operates with an inlet MAOP of 125 psig, and outlet MAOP of 45 psig. With Columbia Gas' assistance reading the chart, it was determined that overpressure events occurred on three (3) occasions from January 9, 2018 to January 12, 2018.



21. Columbia Gas reported that subsequent to discovering the overpressure events, from January 12, 2018 to January 26, 2018, it received 62 odor of gas calls, both from the public and self-generated. Of the 62 calls, 21 calls were deemed “Grade 1” leaks, or hazardous leaks requiring immediate repair. On February 16, 2018, following a leak survey, Columbia Gas reported a total of 193 leaks had been found in the Fayetteville system. Columbia Gas also noted that the majority of identified leaks were from mechanical fitting failures for meter sets. I&E found that this exceedance of MAOP from an engineering view compromised the integrity of the system and warranted total replacement of the system.<sup>5</sup>

### **III. ALLEGED VIOLATIONS**

22. Had this matter been fully litigated, I&E would have proffered evidence and legal arguments to support its allegations that Columbia committed the following violations: 49 CFR § 192.195 (protection against accidental overpressure); 49 CFR § 192.199 (requirements for design of pressure relief and limiting devices); 49 CFR § 192.201 (relating to required capacity of pressure relieving and limiting stations); 49 CFR § 192.605 (relating to procedural manual for operations, maintenance, and emergencies.); 49 CFR § 192.619 (relating to maximum allowable operating pressure – steel or plastic pipelines); and 49 CFR § 192.743 (relating to pressure limiting and regulating stations: capacity of relief devices) and 66 Pa.C.S. §1501 (relating to the provision of reasonable, safe and adequate operation of utility services to the public).<sup>6</sup>

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<sup>5</sup> The total system is approximately 25 miles of pipeline consisting of 3,173 feet of bare steel, 43,463 feet of coated steel, and 85,790 feet of plastic. Included in the plastic pipe is a possible 3,050 feet of Aldyl-A.

<sup>6</sup> I&E recognizes 49 U.S.C. 60101 *et seq.*, and any regulation or order issued thereunder as implemented the Pennsylvania Public Utility Code at 52 Pa. Code § 59.33, which states:

The minimum safety standards for all natural gas and hazardous liquid public utilities in this Commonwealth shall be those issued under the pipeline safety laws as found in 49 U.S.C.A. §§ 60101--60503 and as implemented at 49 CFR Parts 191--193, 195 and 199, including all subsequent amendments thereto.

#### IV. SETTLEMENT TERMS

23. Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest, the Parties held a series of discussions that culminated in this Settlement. I&E and Columbia desire to (1) resolve I&E's informal investigation; and (2) settle this matter completely without litigation. The Parties recognize that given the inherent unpredictability of the outcome of a contested proceeding, there are mutual benefits of amicably resolving the disputed issues. The terms and conditions of the Settlement, for which the Parties seek Commission approval, are set forth below.

24. I&E and Columbia Gas, intending to be legally bound and for consideration given, desire to fully and finally conclude this investigation and agree that a Commission Order approving the Settlement without modification shall create the following rights and obligations:

##### A. Civil Penalty

25. Columbia Gas agrees to pay a total civil penalty of **\$535,000**, identified as follows:<sup>7</sup>

- a. A civil penalty of \$400,000 for the alleged violation of 49 CFR § 192.195, and 49 CFR § 192.199, when Columbia Gas' Rimersburg system had been overpressurized from May 16, 2018 to June 12, 2018 due to old dry and hardened grease on a bypass valve prohibiting new grease from forming a seal, and thus allowing gas to release;

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<sup>7</sup> The following civil penalty terms are consistent with the Federal pipeline safety regulations under 49 U.S.C. § 60101 *et seq.*, and implemented in 66 Pa. Code § 3301, which at the time of the overpressure incidents requires a \$209,002 maximum civil penalty for each violation for each day the violation continues, with a maximum penalty not to exceed \$2,090,022 for a related series of violations. 49 U.S.C. § 60101 *et seq.*

- b. A civil penalty of \$30,000 for the alleged violation of 49 CFR § 192.201, when the pressure of Columbia Gas's Fayetteville distribution system exceeded the MAOP plus 6 psig on January 9, January 10, January 11, and January 12, 2018;
- c. A civil penalty of \$30,000 for the alleged violation of 49 CFR § 192.619 when the pressure of the plastic pipelines in the Fayetteville system exceeded the MAOP of 45 psig on January 9, January 10, January 11, and January 12, 2018;
- d. A civil penalty of \$30,000 for the alleged violation of 49 CFR § 192.743 when the MAOP in the Fayetteville system, established by Columbia Gas, of 45 psig was exceeded due to gas by-passing the pressure limiting and regulating devices at the Ausherman Regulation Station R-3523 on January 9, January 10, January 11, and January 12, 2018;
- e. A civil penalty of \$25,000 for the alleged violation of 49 CFR § 192.605 due to Columbia Gas' having trained its technicians to close a bypass valve by listening to any gas leaks, thereby leading to the valves' incomplete closure and allowing gas to pass through the valve causing the Fayetteville system to overpressure;

- f. A civil penalty of \$20,000 for the alleged violation of the Commission regulations at 52 Pa. Code § 59.33 promulgated under 66 Pa.C.S. §1501. The Parties note that while the above action resulted in an increased danger to the public, no loss of life, personal injury, nor property damage occurred in connection with any of the matters set forth above.
- g. Columbia Gas will not seek recovery of any portion of the total civil penalty amount of \$535,000 in any future ratemaking proceeding, and agrees that it will not be tax deductible under Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f). Said payment shall be made by certified check payable to “Commonwealth of Pennsylvania” and forwarded to the Commission through the prosecuting attorney within sixty (60) days of the entry date of the Final Order approving this Settlement;

**B. Voluntary Modification of Business Practices**

26. In 2019, Columbia Gas implemented the Safety Management System (“SMS”), which is a comprehensive approach to managing safety, emphasizing continual assessment and improvement and mitigating potential risks before they happen. Columbia Gas will include the issues of bypass valves in its SMS process (including determining whether they are opened or closed, active monitoring, remote access and pressure relief on its regulator stations that include bypass valves). Columbia will update I&E on its findings and proposed process changes that result from SMS;

27. As part of its Gas Distribution Integrity Management Program (“DIMP”), Columbia Gas will include the issues of bypass valves (including the determination of whether bypass valves are opened or closed, active monitoring, remote access and pressure relief on its regulator stations that include bypass valves) in its identification and ranking of risk, segment by segment, across its system:

- a. As part of the process to integrate the valves into the DIMP plan, Columbia Gas will inventory all bypass valves in its system in Pennsylvania. The inventory will first focus on regulator stations on low pressure stations (to be completed by December 31, 2021) and stations with greater than 125 psig inlet pressure (to be completed by March 31, 2022). Columbia Gas will complete inventory of the remaining systems within two (2) years from the effective date of the settlement order;
- b. In this inventory, Columbia Gas shall identify, at a minimum, manufacture, installation year, size, and whether the valve has a way to identify the position of the valve (whether it is on or off);
- c. This inventory shall also include inlet and outlet pressures of the station;
- d. From this list, Columbia Gas shall develop a process to rank the risk specifically on the bypass valves across the distribution system, and;

- e. Columbia Gas shall develop a replacement schedule or preventative and mitigative measures to prevent bypass valves from bleeding though or failing.

28. Columbia Gas shall abide by its newly implemented procedures regarding the use of bypass valves so that technicians properly determine whether bypass valves are opened or closed and in proper working order;<sup>8</sup>

29. In addition to the above-mentioned procedures regarding bypass valves, Columbia shall also abide by the following Operational Notice issued by NiSource Inc.:

- a. Operational Notice 19-05: there is a minimum 30-minute requirement to monitor downstream pressure at the end of all work performed in a regulator station when that work has involved bypassing the station to ensure the downstream pressure has stabilized. This work shall always be performed with two qualified metering and regulation (“M&R”) personnel.
- b. If a bypass valve is operated, Columbia shall observe and record the downstream pressure on the following day and observe and record the downstream pressure. This process should occur on all stations with

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<sup>8</sup> Such procedures, which include specific steps relating to verification of closed valves, have been added to Columbia Gas’ bypass valve operation procedures. Those steps include:

- Screwing the control regulator all the way down (wide open);
- Determining the monitor regulator set-point as indicated in the regulator inspection record;
- Adjusting the bypass valve to achieve an outlet pressure setting lower than the desired monitor regulator and set-point;
- Slowly increasing the monitor regulator set-point and have the bypass valve operator start to close the bypass valve as the monitor regulator picks up the load on the system;.
- Verifying that the bypass valve is *fully* closed; and
- Adjusting the control regulator to its desired set-point.

bypass valves until non-primary reliefs or remote pressure monitoring can be installed at these stations, at which time Columbia should reevaluate the need to continue this process.

30. Columbia Gas will improve its active monitoring, remote access and non-primary reliefs on its regulator stations that include bypass valves.

- a. With regard to low pressure systems, Columbia Gas will continue the program initiated in 2019, under which the Company began installing monitor regulators that are designed to slam shut when the pressure is either too low or too high for the systems to function correctly.
- b. In addition to these slam shut regulators, on its low pressure systems Columbia Gas will continue to install remote monitoring devices that communicate directly with gas control that have set parameters that allow Columbia Gas to respond should pressure exceed either the high or low set points.
- c. Regarding its entire distribution network, Columbia Gas will initiate a program to install remote electronic pressure monitoring devices which will warn Columbia Gas when pressures increase. Under that program, Columbia Gas will also:
  - (1) Install a non-primary relief for each system that utilizes a bypass valve to prevent future overpressures and prevent similar instances while giving Columbia Gas more information and time to respond to events;

- (2) Prioritize systems identified as higher risk for installations of non-primary relief valves, and;
- (3) Provide I&E with a timeframe for the installation of downstream monitors, slam shut regulators and bypass valves;

31. Columbia Gas will add fields to its inspection forms regarding bypass valves to record pressure measured at the beginning and end of the monitoring period established under Operational Notice 19-05.

32. Beginning April 27, 2021, Columbia Gas has implemented pilot Standard Operating Procedures regarding shut down and start up of District Regulator Stations. Following those standard operating procedures, Columbia will ensure that the following items will be observed as part of each inspection:

- a. Does the regulator station include a bypass valve? Y/N
- b. Is the bypass valve marked to indicate when it is fully closed, Y/N, or does it have a stop? Y/N
- c. How is the valve marked to indicate that it is fully closed?

## **V. CONDITIONS OF SETTLEMENT**

33. The benefits and obligations of this Joint Petition for Approval of Settlement shall be binding upon the successors and assigns of the parties to the Settlement.

34. This Joint Petition may be signed in counterparts and all signatures attached hereto will be considered as originals.



35. In order to effectuate the parties' Joint Petition for Approval of Settlement, the undersigned parties request that the Commission issue a Final Order approving the Petition without modification.

36. The Parties agree that any party may petition the Commission for a hearing or take other recourse allowed under the Commission's rules if the Commission Order substantively modifies the terms of this Joint Petition for Approval of Settlement. In that event, any party may give notice to the other that it is withdrawing from this Joint Petition for Approval of Settlement. Such notice must be in writing and must be given within twenty (20) business days of the issuance of the Final Order which adopts this Joint Petition for Approval of Settlement with substantive modifications of its terms. The consequence of any party withdrawing from this Joint Petition for Approval of Settlement as set forth above is that all issues associated with the requested relief presented in the proceeding will be fully litigated by the filing of a Formal Complaint unless otherwise stipulated between the parties and all obligations of the parties to each other set forth herein are terminated and of no force and effect. In the event that a party withdraws from this Joint Petition for Approval of Settlement as set forth in this paragraph, I&E and Columbia Gas jointly agree that nothing in this Joint Petition shall be construed as an admission against or as prejudice to any position which any party might adopt during litigation of this case.

37. I&E and Columbia Gas jointly acknowledge that approval of this Settlement Agreement is in the public interest and is fully consistent with the Commission's Policy Statement for evaluating litigated and settled proceedings involving violations of the Code and Commission regulations, 52 Pa. Code § 69.1201. The Commission will serve the public interest by adopting this Joint Petition for Approval of Settlement.

38. The Joint Petition for Approval of Settlement avoids the time and expense of litigation in this matter before the Commission, which likely would entail the filing of a Formal Complaint, the preparation for and attendance at hearings, and the preparation and filing of testimony, briefs, reply briefs, exceptions, and reply exceptions. The Parties further recognize that their positions and claims are disputed and, given the inherent unpredictability of the outcome of a contested proceeding, the Parties recognize the benefits of amicably resolving the disputed issues through settlement.

39. Since the Parties agree to the terms of the Joint Petition for Approval of Settlement, adopting it will eliminate the possibility of any appeal from the Commission Secretarial Letter or Order, thus avoiding the additional time and expense that they might incur in such an appeal.

40. This Settlement consists of the entire agreement between I&E and Columbia Gas regarding the matters addressed herein. Moreover, this Settlement represents a complete settlement of I&E's informal investigation against Columbia Gas' alleged violations of the Public Utility Code and the Commission's regulations as discussed in more detail in Section II. The Parties expressly acknowledge that this Settlement Agreement represents a compromise of positions and does not in any way constitute a finding or an admission

concerning the alleged violations of the Public Utility Code and the Commission's regulations. This Settlement shall be construed and interpreted under Pennsylvania Law.

41. The Settlement contains a summary of alleged violations of the Public Utility Code and the Commission's regulations. See, Section III, Alleged Violations. In addition, the Settlement Terms contains Proposed Settlement Terms. See, Section IV, Settlement Terms. None of the provisions in this Settlement, including Sections III and IV of the proposed Settlement, shall be considered or shall constitute an admission, a finding of any fact, or a finding of culpability on the part of Columbia in this or any other proceeding. This Settlement is presented without prejudice to any position that either party may have advanced, and without prejudice to the position any party may advance, in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

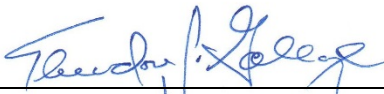
42. The terms and conditions of this Settlement Agreement constitute a carefully crafted package representing reasonably negotiated compromises on the issues addressed herein. Thus, the Settlement Agreement is consistent with the Commission's rules and practices encouraging negotiated settlements set forth in 52 Pa. Code §§ 5.231 and 69.1201.

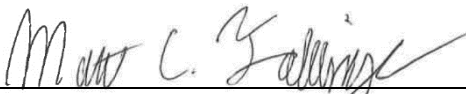
**WHEREFORE**, the Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement and Columbia Gas of PA, Inc. respectfully request that the Commission enter an Order approving the terms of the Joint Petition for Approval of Settlement in their entirety and without modification as being in the public interest.

Respectfully submitted,

**COLUMBIA GAS OF PA, INC.**

**BUREAU OF  
INVESTIGATION & ENFORCEMENT**

By:   
\_\_\_\_\_  
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By:   
\_\_\_\_\_  
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[mfallings@pa.gov](mailto:mfallings@pa.gov)

*Counsel for  
Columbia Gas of PA, Inc.*

*Counsel for  
Bureau of Investigation & Enforcement*

Date: June 8, 2021

Date: June 8, 2021

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No.: M-2021-3005572
	:	
Columbia Gas of PA, Inc.	:	
Respondent	:	

**PROPOSED ORDERING PARAGRAPHS**

1. That the Joint Settlement Petition filed on May 12, 2021 between the Commission’s Bureau of Investigation and Enforcement and Columbia Gas of PA, Inc. (“Columbia”) is approved in its entirety without modifications.

2. That, in accordance with Section 3301(c) of the Public Utility Code, 66 Pa. C.S. § 3301(c), within sixty (60) days of the date this Order becomes final, Columbia shall pay a civil penalty of Five-Hundred and Thirty-Five Thousand Dollars (\$535,000.00). Said payment shall be made by certified check or money order payable to “Commonwealth of Pennsylvania” and shall be sent to:

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

3. That no amount of the civil penalty shall be passed through as an additional charge to Columbia’s customers in Pennsylvania.

4. Columbia is directed to file a sworn certification with the Commission showing its compliance with this settlement term within two (2) years of the date of entry of the Final Order in this proceeding.

5. A copy of this Opinion and Order shall be served upon the Financial and Assessment Chief, Bureau of Administration.

6. That the above-captioned matter shall be marked closed upon receipt of the civil penalty.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :  
Bureau of Investigation and Enforcement :  
Complainant :  
v. : Docket No.: M-2021-3005572  
Columbia Gas of PA, Inc. :  
Respondent :

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**THE BUREAU OF INVESTIGATION AND ENFORCEMENT'S  
STATEMENT IN SUPPORT OF THE  
JOINT PETITION FOR APPROVAL OF SETTLEMENT**

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TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code §§ 5.231, 5.232 and 69.1201, the Pennsylvania Public Utility Commission's ("Commission" or "PUC") Bureau of Investigation and Enforcement ("I&E"), a signatory party to the Joint Petition for Approval of Settlement ("Settlement" or "Settlement Agreement") filed in the matter docketed above ("Informal Investigation"), submits this Statement in Support of the Settlement Agreement between I&E and Columbia Gas of PA, Inc. ("Columbia," "Columbia Gas" or "Company").<sup>1</sup> I&E avers that the terms and conditions of the Settlement agreement are just and reasonable and in the public interest for the reasons set forth below herein.

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<sup>1</sup> I&E and Columbia are collectively referred to herein as the "Parties."

## **I. Background**

I&E's informal investigation concerns overpressure incidents which occurred at Columbia Gas' distribution network in Rimersburg, Pennsylvania and Fayetteville, Pennsylvania, both of which involved bypass valves allowing excess gas into the system due to leaks in the valve.

### **A. Distribution System in Rimersburg, Pennsylvania**

This matter began on or about June 12, 2018, when a Columbia Gas regulator technician discovered that the Rimersburg system recently underwent an overpressure event while changing the pressure charts at the Cherry Run Regulator Station R-4046. The Station R-4046 pressure recording chart showed that from May 16, 2018, to June 12, 2018, the pipeline system, 37022302, had daily spikes up to 27 inches of water column. This system was a two-way feed with regulator stations at each end and had a MAOP of 14 inches of water column. Station R-4046 had an inlet MAOP of 125 pounds per square inch gauge ("psig") and outlet MAOP of 110 psig.

Columbia Gas technicians then arrived at the station, installed pressure gauges, deactivated all affected customer meters, and discovered 13-meter sets were affected along the approximately 3,000 feet of main line. The technicians verified that when they reactivated the system, a blockage was detected in the main line.

I&E Pipeline Safety inspectors later arrived at the station to witness Columbia Gas technicians locate the water blockage in the main line. The technicians detected the water blockage in the bare steel main line, found the line to be corroded, and discovered a water leak after an attempt to repair the line. Columbia Gas identified this as a Grade 2 leak.

Columbia Gas then installed a drip tank on this line and verified that the overpressure events



did not damage any inside house lines or appliances. The I&E Pipeline Safety inspectors also ordered Columbia Gas to perform leak surveys every six hours on the line. On June 15, 2018, Columbia Gas installed numerous clamps on the line to repair the leaks.

I&E determined that this overpressure occurred because dried grease on the bypass valve to the main pipeline prevented the valve from sealing when a technician had applied new grease to the valve. On June 19, 2018, I&E Pipeline Safety inspectors witnessed this valve being tested by Columbia Gas technicians. The valve was a 2" Nordstrom Valve Fix 143 Number 5265. The valve testing took place at the Company's York location, with a Company employee performing the test by connecting two pieces of pipe to either side of the valve and then putting air pressure on a side to indicate if air would leak. The Columbia Gas technician put 52 psig in the pipe, and it immediately leaked through the valve. Columbia Gas believes that during the routine inspection, when the valve was turned and regreased, new grease failed to enter the valve which caused it not to form a tight seal. After a second test, the valve did not leak any further air pressure.

#### **B. Distribution System in Fayetteville, Pennsylvania**

The second system in Fayetteville serves 966 active customers. I&E found that between January 9, 2018 and January 12, 2018, the Ausherman Regulator Station, R-3523, located in Fayetteville, was over-pressurized because a technician failed to fully close the bypass valve after the valve had been opened to address a supply shortage.

On January 12, 2018, a Columbia Gas technician determined that the system was overpressurized when repairing a meter that was struck by a vehicle. I&E Pipeline Safety inspectors were contacted by a Columbia Gas' Compliance Manager and notified of an overpressure in the Fayetteville area system of the Greencastle shop. Columbia Gas

personnel informed the PUC inspectors of the overpressure, reported that the system was a two-way feed, and that no outages were reported due to the overpressure.

The I&E Pipeline Safety inspectors alongside Columbia Gas personnel then inspected Station R-3523 and reviewed the pressure chart. It was discovered that when the chart was previously changed, the chart recorded the inlet pressure in the system which caused the time to be marked incorrectly and required the chart to be read several hours ahead of time. The R-3523 Station operates with an inlet MAOP of 125 psig, and outlet MAOP of 45 psig. With Columbia Gas' assistance reading the chart, it was determined that overpressure events occurred on three (3) occasions from January 9, 2018 to January 12, 2018.

During the three (3) overpressure events, the open bypass valve allowed upstream pressure to the R-3523 Station to bypass the regulator set and cause the system to exceed the MAOP of 45 psig, reaching a pressure of 117 psig, which is 160% of the MAOP. I&E understands that three (3) overpressure events occurred on the following occasions:

1. On January 9, 2018, the pressure exceeded the MAOP of 45 psig for two hours, reaching approximately 77 psig.
2. On January 10, 2018, the pressure exceeded the MAOP of 45 psig for two hours, reaching approximately 52 psig.
3. From January 11, 2018 to January 12, 2018, the pressure exceeded the MAOP of 45 psig for twenty-one hours, reaching approximately 107 psig.

Columbia Gas reported that subsequent to discovering the overpressure events, from January 12, 2018 to January 26, 2018, it received 62 odor of gas calls, both from the public and self-generated. Of the 62 calls, 21 calls were deemed "Grade 1" leaks, or hazardous leaks requiring immediate repair. On February 16, 2018, following a leak survey, Columbia

Gas reported a total of 193 leaks had been found in the Fayetteville system. Columbia Gas also noted that the majority of identified leaks were from mechanical fitting failures for meter sets. I&E found that this exceedance of MAOP from an engineering view compromised the integrity of the system and warranted total replacement of the system.

## **II. The Public Interest**

Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest, the Parties held a series of settlement discussions. These discussions culminated in this Settlement Agreement, which, once approved, will resolve all issues related to I&E's Informal Investigation involving allegations related to the overpressurization events at Columbia's distribution systems in Rimersburg, Pennsylvania and Fayetteville, Pennsylvania.

The terms of the Settlement Agreement, as discussed in more detail below, fully address all allegations brought forth against Columbia and provide not only a civil penalty, but a voluntary modification of Columbia's operational practices. I&E's approach of seeking a civil penalty and a modification of operational practices provides a corrective measure to both that Columbia operates its facilities and uses equipment within the standards expected by the PUC, as well as ensure that future customers are not harmed by the Columbia's operational practices or equipment.

I&E intended to issue a Formal Complaint which would set forth the factual allegations to be litigated at a hearing to which Columbia would have disputed. This Settlement Agreement results from the compromises of the Parties. I&E recognizes that, given the inherent unpredictability of the outcome of a contested proceeding, not to mention the potential challenges facing the Parties due to COVID-19 if this matter were litigated, the

benefits to amicably resolve the disputed issues through settlement outweigh the risks and expenditures of litigation. I&E submits that the settlement constitutes a reasonable, fair compromise of the issues discovered from I&E's Informal Investigation and is in the public interest. As such, I&E respectfully requests that the Commission approve the Settlement without modification.

### **III. Terms of Settlement**

Under the terms of the Settlement Agreement, I&E and Columbia have agreed to the following:

#### **A. Civil Penalty**

1. Columbia Gas agrees to pay a total civil penalty of **\$535,000**, identified as follows:<sup>2</sup>
  - a. A civil penalty of \$400,000 for the alleged violation of 49 CFR § 192.195, and 49 CFR § 192.199, when Columbia Gas' Rimersburg system had been overpressurized from May 16, 2018 to June 12, 2018 due to old dry and hardened grease on a bypass valve prohibiting new grease from forming a seal, and thus allowing gas to release;
  - b. A civil penalty of \$30,000 for the alleged violation of 49 CFR § 192.201, when the pressure of Columbia Gas's Fayetteville distribution system exceeded the MAOP plus 6 psig on January 9, January 10, January 11, and January 12, 2018;

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<sup>2</sup> The following civil penalty terms are consistent with the Federal pipeline safety regulations under 49 U.S.C. § 60101 *et seq.*, and implemented in 66 Pa. Code § 3301, which at the time of the overpressure incidents requires a \$209,002 maximum civil penalty for each violation for each day the violation continues, with a maximum penalty not to exceed \$2,090,022 for a related series of violations. 49 U.S.C. § 60101 *et seq.*

- c. A civil penalty of \$30,000 for the alleged violation of 49 CFR § 192.619 when the pressure of the plastic pipelines in the Fayetteville system exceeded the MAOP of 45 psig on January 9, January 10, January 11, and January 12, 2018;
- d. A civil penalty of \$30,000 for the alleged violation of 49 CFR § 192.743 when the MAOP in the Fayetteville system, established by Columbia Gas, of 45 psig was exceeded due to gas by-passing the pressure limiting and regulating devices at the Ausherman Regulation Station R-3523 on January 9, January 10, January 11, and January 12, 2018;
- e. A civil penalty of \$25,000 for the alleged violation of 49 CFR § 192.605 due to Columbia Gas' having trained its technicians to close a bypass valve by listening to any gas leaks, thereby leading to the valves' incomplete closure and allowing gas to pass through the valve causing the Fayetteville system to overpressure;
- f. A civil penalty of \$20,000 for the alleged violation of the Commission regulations at 52 Pa. Code § 59.33 promulgated under 66 Pa.C.S. §1501. The Parties note that while the above action resulted in an increased danger to the public, no loss of life, personal injury, nor property damage occurred in connection with any of the matters set forth above.

- g. Columbia Gas will not seek recovery of any portion of the total civil penalty amount of \$535,000 in any future ratemaking proceeding, and agrees that it will not be tax deductible under Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f). Said payment shall be made by certified check payable to “Commonwealth of Pennsylvania” and forwarded to the Commission through the prosecuting attorney within sixty (60) days of the entry date of the Final Order approving this Settlement;

**B. Voluntary Modification of Business Practices**

2. In 2019, Columbia Gas implemented the Safety Management System (“SMS”), which is a comprehensive approach to managing safety, emphasizing continual assessment and improvement and mitigating potential risks before they happen. Columbia Gas will include the issues of bypass valves in its SMS process (including determining whether they are opened or closed, active monitoring, remote access and pressure relief on its regulator stations that include bypass valves). Columbia will update I&E on its findings and proposed process changes that result from SMS;

3. As part of its Gas Distribution Integrity Management Program (“DIMP”), Columbia Gas will include the issues of bypass valves (including the determination of whether bypass valves are opened or closed, active monitoring, remote access and pressure relief on its regulator stations that include bypass valves) in its identification and ranking of risk, segment by segment, across its system:

- a. As part of the process to integrate the valves into the DIMP plan, Columbia Gas will inventory all bypass valves in its system in

Pennsylvania. The inventory will first focus on regulator stations on low pressure stations (to be completed by December 31, 2021) and stations with greater than 125 psig inlet pressure (to be completed by March 31, 2022). Columbia Gas will complete inventory of the remaining systems within two (2) years from the effective date of the settlement order;

- b. In this inventory, Columbia Gas shall identify, at a minimum, manufacture, installation year, size, and whether the valve has a way to identify the position of the valve (whether it is on or off);
- c. This inventory shall also include inlet and outlet pressures of the station;
- d. From this list, Columbia Gas shall develop a process to rank the risk specifically on the bypass valves across the distribution system, and;
- e. Columbia Gas shall develop a replacement schedule or preventative and mitigative measures to prevent bypass valves from bleeding though or failing.

4. Columbia Gas shall abide by its newly implemented procedures regarding the use of bypass valves so that technicians properly determine whether bypass valves are opened or closed and in proper working order;<sup>3</sup>

5. In addition to the above-mentioned procedures regarding bypass valves, Columbia shall also abide by the following Operational Notice issued by NiSource Inc.:

- a. Operational Notice 19-05: there is a minimum 30-minute requirement to monitor downstream pressure at the end of all work performed in a regulator station when that work has involved bypassing the station to ensure the downstream pressure has stabilized. This work shall always be performed with two qualified metering and regulation (“M&R”) personnel.
- b. If a bypass valve is operated, Columbia shall observe and record the downstream pressure on the following day and observe and record the downstream pressure. This process should occur on all stations with bypass valves until non-primary reliefs or remote pressure monitoring can be installed at these stations, at which time Columbia should reevaluate the need to continue this process.

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<sup>3</sup> Such procedures, which include specific steps relating to verification of closed valves, have been added to Columbia Gas’ bypass valve operation procedures. Those steps include:

- Screwing the control regulator all the way down (wide open);
- Determining the monitor regulator set-point as indicated in the regulator inspection record;
- Adjusting the bypass valve to achieve an outlet pressure setting lower than the desired monitor regulator and set-point;
- Slowly increasing the monitor regulator set-point and have the bypass valve operator start to close the bypass valve as the monitor regulator picks up the load on the system;.
- Verifying that the bypass valve is *fully* closed; and
- Adjusting the control regulator to its desired set-point.



6. Columbia Gas will improve its active monitoring, remote access and non-primary reliefs on its regulator stations that include bypass valves.
  - a. With regard to low pressure systems, Columbia Gas will continue the program initiated in 2019, under which the Company began installing monitor regulators that are designed to slam shut when the pressure is either too low or too high for the systems to function correctly.
  - b. In addition to these slam shut regulators, on its low pressure systems Columbia Gas will continue to install remote monitoring devices that communicate directly with gas control that have set parameters that allow Columbia Gas to respond should pressure exceed either the high or low set points.
  - c. Regarding its entire distribution network, Columbia Gas will initiate a program to install remote electronic pressure monitoring devices which will warn Columbia Gas when pressures increase. Under that program, Columbia Gas will also:
    - (1) Install a non-primary relief for each system that utilizes a bypass valve to prevent future overpressures and prevent similar instances while giving Columbia Gas more information and time to respond to events;
    - (2) Prioritize systems identified as higher risk for installations of non-primary relief valves, and;
    - (3) Provide I&E with a timeframe for the installation of downstream monitors, slam shut regulators and bypass valves;

7. Columbia Gas will add fields to its inspection forms regarding bypass valves to record pressure measured at the beginning and end of the monitoring period established under Operational Notice 19-05.

8. Beginning April 27, 2021, Columbia Gas has implemented pilot Standard Operating Procedures regarding shut down and start up of District Regulator Stations. Following those standard operating procedures, Columbia will ensure that the following items will be observed as part of each inspection:

- a. Does the regulator station include a bypass valve? Y/N
- b. Is the bypass valve marked to indicate when it is fully closed, Y/N, or does it have a stop? Y/N
- c. How is the valve marked to indicate that it is fully closed?

#### **IV. CONDITIONS OF SETTLEMENT**

- a. The benefits and obligations of the Settlement Agreement filed alongside this Statement in Support shall be binding upon the successors and assigns of the parties to the Settlement.
- b. The Settlement Agreement may be signed in counterparts and all signatures attached hereto will be considered as originals.
- c. In order to effectuate the parties' Settlement Agreement, the undersigned parties request that the Commission issue a Final Order approving the Petition without modification.
- d. The Parties agree that any party may petition the Commission for a hearing or take other recourse allowed under the Commission's rules if the Commission Order substantively modifies the terms of the

Settlement Agreement. In that event, any party may give notice to the other that it is withdrawing from the Settlement. Such notice must be in writing and must be given within twenty (20) business days of the issuance of the Final Order which adopts the Settlement Agreement with substantive modifications of its terms. The consequence of any party withdrawing from the Settlement Agreement as set forth above is that all issues associated with the requested relief presented in the proceeding will be fully litigated by the filing of a Formal Complaint unless otherwise stipulated between the parties and all obligations of the parties to each other set forth herein are terminated and of no force and effect. In the event that a party withdraws from Settlement Agreement as set forth in this paragraph, I&E and Columbia Gas jointly agree that nothing in the Settlement Agreement shall be construed as an admission against or as prejudice to any position which any party might adopt during litigation of this case.

- e. I&E and Columbia Gas jointly acknowledge that approval of the Settlement Agreement is in the public interest and is fully consistent with the Commission's Policy Statement for evaluating litigated and settled proceedings involving violations of the Code and Commission regulations, 52 Pa. Code § 69.1201. The Commission will serve the public interest by adopting this Joint Petition for Approval of Settlement.

- f. The Settlement Agreement avoids the time and expense of litigation in this matter before the Commission, which likely would entail the filing of a Formal Complaint, the preparation for and attendance at hearings, and the preparation and filing of testimony, briefs, reply briefs, exceptions, and reply exceptions. The Parties further recognize that their positions and claims are disputed and, given the inherent unpredictability of the outcome of a contested proceeding, the Parties recognize the benefits of amicably resolving the disputed issues through settlement.
- g. Since the Parties agree to the terms of the Settlement Agreement, adopting it will eliminate the possibility of any appeal from the Commission Secretarial Letter or Order, thus avoiding the additional time and expense that they might incur in such an appeal.
- h. The Settlement consists of the entire agreement between I&E and Columbia Gas regarding the matters addressed herein. Moreover, this Settlement represents a complete settlement of I&E's informal investigation against Columbia Gas' alleged violations of the Public Utility Code and the Commission's regulations as discussed in more detail in Section II. The Parties expressly acknowledge that the Settlement Agreement represents a compromise of positions and does not in any way constitute a finding or an admission concerning the alleged violations of the Public Utility Code and the Commission's

regulations. The Settlement shall be construed and interpreted under Pennsylvania Law.

- i. The Settlement contains a summary of alleged violations of the Public Utility Code and the Commission's regulations. See, Section III, Alleged Violations. In addition, the Settlement Terms contains Proposed Settlement Terms. See, Section IV, Settlement Terms. None of the provisions in this Settlement, including Sections III and IV of the proposed Settlement, shall be considered or shall constitute an admission, a finding of any fact, or a finding of culpability on the part of Columbia in this or any other proceeding. The Settlement is presented without prejudice to any position that either party may have advanced, and without prejudice to the position any party may advance, in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.
- j. The terms and conditions of the Settlement Agreement constitute a carefully crafted package representing reasonably negotiated compromises on the issues addressed herein. Thus, the Settlement Agreement is consistent with the Commission's rules and practices encouraging negotiated settlements set forth in 52 Pa. Code §§ 5.231 and 69.1201.

## V. Legal Standard for Settlement Agreements

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. “The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a ‘burden of proof’ standard, as is utilized for contested matters.” *Pa. Pub. Util. Comm’n, et al. v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, et al. (Order entered July 14, 2011). Instead, the benchmark for determining the acceptability of a settlement is whether the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. Philadelphia Gas Works*, Docket No. M-00031768 (Order entered January 7, 2004).

I&E submits that approval of the Settlement Agreement in the above-captioned matter is consistent with the Commission’s Policy Statement regarding Factors and Standards for Evaluating Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations (“Policy Statement”), 52 Pa. Code § 69.1201; *see also Joseph A. Rosi v. Bell-Atlantic-Pennsylvania, Inc.*, Docket No. C-00992409 (Order entered March 16, 2000). The Commission’s Policy Statement sets forth ten (10) factors that the Commission may consider in evaluating whether a civil penalty for violating a Commission order, regulation, or statute is appropriate, as well as whether a proposed settlement for a violation is reasonable and in the public interest. 52 Pa. Code § 69.1201.

The Commission will not apply the factors as strictly in settled cases as in litigated cases. 52 Pa. Code § 69.1201(b). While many of the same factors may still be considered, in

settled cases, the parties “will be afforded flexibility in reaching amicable resolutions to complaints and other matters as long as the settlement is in the public interest.” *Id.*

The first factor considers whether the conduct at issue was of a serious nature, such as fraud or misrepresentation, or if the conduct was less egregious, such as an administrative or technical error. Conduct of a more serious nature may warrant a higher civil penalty while conduct that is less egregious warrants a lower amount. 52 Pa. Code § 69.1201(c)(1). I&E alleges that the conduct in this matter involves overpressurization events at two locations, one of which occurred over a course of twenty-six (26) days from May, 16, 2018 to June, 12, 2018, at Columbia’s Rimersburg System and the other occurred over a course of four (4) days at Columbia’s distribution system in Fayetteville, Pennsylvania. Both of these incidents occurred due to inadequate use and maintenance of bypass valves, and the subsequent leak of gas from such bypass valves causing the systems to overpressurize. I&E notes that no individual was harmed during the aforementioned overpressurization events.

Nevertheless, I&E has found that as a consequence of the overpressurization incidents at Columbia Gas’ Rimersburg and Fayetteville systems, including the duration of the incidents and the serious nature of the actions that led to the incidents, members of the public were put at grave risk of injury. Because safe and adequate service to the public is a major concern when gas safety incidents occur, I&E considers the consequences of the incidents mentioned in Section I of this Statement in Support to be of a serious nature, which warrants a higher civil penalty.

The second factor considers whether the resulting consequences of Columbia’s alleged conduct were of a serious nature. When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a

higher penalty. 52 Pa. Code § 69.1201(c)(2). I&E submits that no personal injury or property damage occurred as a result of the alleged violations. Nonetheless, the overpressurization incidents at Columbia Gas' Rimersburg and Fayetteville systems, including the duration of the incidents and the serious nature of the actions that led to the incidents, members of the public were put at grave risk of injury.

The third factor to be considered under the Policy Statement is whether the alleged conduct was intentional or negligent. 52 Pa. Code § 69.1201(c)(3). "This factor may only be considered in evaluating litigated cases." *Id.* Whether Columbia's alleged conduct was intentional or negligent does not apply since this matter is being resolved by settlement of the Parties.

The fourth factor to be considered is whether Columbia has made efforts to change its practices and procedures to prevent similar conduct in the future. 52 Pa. Code § 69.1201(c)(4). Columbia Gas has cooperated with I&E's investigation in order to address and correct the violations stemming from the incidents at the Rimersburg system and Fayetteville system. Columbia Gas has cooperated with safety recommendations from I&E Pipeline Safety inspectors, including, inter alia, maintaining weekly or monthly leak surveys, repairing all leaks that are detected in the system, and continuing daily odorant level verifications. In regard to the Rimersburg system, Columbia Gas has replaced 1,838 feet of bare steel, coated steel, and plastic with 2,400 feet of polyethylene plastic ranging in size from 2 to 8 inches. Columbia Gas has also removed the Regulator Station R-4046 on Cherry Run Road. Columbia Gas has replaced the over-pressurized pipe sections in the Rimersburg system with a medium pressure system, to ensure safe operation.



The fifth factor to be considered relates to the number of customers affected by the Company's actions and the duration of the violations. 52 Pa. Code § 69.1201(c)(5). I&E discovered that Columbia's Rimersburg system serves 420 active customers and Columbia's Fayetteville system serves 966 active customers. While no customers were harmed by the overpressurization incidents, such customers were affected by the adequacy and safety of gas service from Columbia's systems and the dangers the overpressurizations posed over the course of days and weeks.

The sixth factor to be considered relates to the compliance history of Columbia. 52 Pa. Code § 69.1201(c)(6). An isolated incident from an otherwise complaint company may result in a lower penalty, whereas frequent, recurrent violations by a company may result in a higher penalty. *Id.* Columbia became a jurisdictional gas distribution supplier licensed by the Commission at Docket No. A-2015-2491750. When reviewing the compliance history of Columbia Gas, previous overpressure incidents allegedly occurred in 2014. *See Pennsylvania Pub. Util. Comm'n, Bureau of Investigation & Enf't v. Columbia Gas of Pennsylvania*, No. M-2014-2306076, 2014 WL 2644843 (June 5, 2014).

The seventh factor to be considered relates to whether the Company cooperated with the Commission's investigation. 52 Pa. Code § 69.1201(c)(7). Columbia Gas has cooperated with I&E's investigation in order to address and correct the violations stemming from the incidents at the Rimersburg system and Fayetteville system. Concerning the Rimersburg system, Columbia Gas has replaced 1,838 feet of bare steel, coated steel, and plastic with 2,400 feet of polyethylene plastic ranging in size from 2 to 8 inches. Columbia Gas has also removed the Regulator Station R-4046 on Cherry Run Road. I&E understands that Columbia Gas has replaced the over-pressurized pipe sections in the Rimersburg system

with a medium pressure system, to ensure safe operation. Columbia Gas has further cooperated with safety recommendations from I&E Pipeline Safety inspectors, including, *inter alia*, maintaining weekly or monthly leak surveys, repairing all leaks that are detected in the system, and continuing daily odorant level verifications.

The eighth factor to be considered is the appropriate settlement amount necessary to deter future violations. 52 Pa. Code § 69.1201(c)(8). I&E submits that a civil penalty amount of \$535,000.00, which is not tax deductible, and business practice changes/modifications is substantial and sufficient to deter future overpressurization incidents at Columbia Gas' Rimersburg and Fayetteville systems, including the duration of the incidents and the serious nature of the actions that led to the incidents.

The ninth factor to be considered relates to past Commission decisions in similar situations. 52 Pa. Code § 69.1201(c)(9). Maximum civil penalties were settled upon or imposed by the Commission when overpressure incidents lead to a death. *See Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. UGI Utilities, Inc.*, Docket No. C-2012-2308997, (Initial Decision issued October 31, 2012) (finding that a higher penalty is warranted from an incident involving a gas explosion where life was lost and fire resulted in property damage). In this matter no individual died, nobody got hurt, and no customer property was damaged, so a maximum civil penalty is unnecessary.<sup>4</sup> The Commission has also imposed lesser penalties to resolve various federal and state gas safety violations. *See, e.g., Pennsylvania Pub. Util. Comm'n L. Bureau Prosecutory Staff v. UGI Utilities, Inc.*, No.

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<sup>4</sup> Under 49 USC. 60101, the allowable civil penalty for this matter is \$209,002 for each violation for each day the violation continues, with a maximum penalty not to exceed \$2,090,022 for a related series of violations. This means that the maximum civil penalty could potentially be applied to the Rimersburg and Fayetteville incidents separately, a total of \$4,180,044.

C-2009-2120601, 2010 WL 4809927 (*Nov. 19, 2010*) (Order entered November 19, 2010).

The Commission further has imposed lesser civil penalty amounts for violating §1501.

*Wilmer Baker v. Sunoco Pipeline, L.P.*, No. C-2018-3004294, 2020 WL 5877007 (Sept. 23, 2020) (imposing a \$1,000 civil penalty when an overpressure incident only affected 1 person, the gas company was directed to enhance and improve the pipeline's safety, and nobody was hurt.)

The tenth factor considers "other relevant factors." 52 Pa. Code § 69.1201(c)(10). In support of the \$535,000.00 civil penalty, I&E notes that Columbia Gas has been credited for retiring 45k+ feet of pipe upon request from PUC inspectors to resolve the overpressure incidents and mitigate further overpressure incidents. Also, a maximum civil penalty is unnecessary because Columbia Gas promptly complied and cooperated with I&E to resolve the issues that included a large replacement of their Fayetteville pipeline, and Columbia Gas does not have an extensive history of being noncompliant with PUC regulations Pennsylvania. *Pub. Util. Comm'n v. Philadelphia Gas Works*, No. C-2011-2278312, 2013 WL 3928985 (July 16, 2013) (PGW) (imposing the maximum civil penalty when an explosion caused 6 injuries and 1 death, and while PGW voluntarily cooperated with I&E to resolve the issues, the maximum civil penalty allowed at the time was imposed due to the deaths and to deter future violations.) Following the above, the civil penalty is appropriate given that Columbia Gas' bypass valve leaks did not result in a fire, explosion or cause personal injury. Also, there has not been any reported property damage due to the leaks. As consequences of a serious nature did not ensue, alongside Columbia Gas cooperating with I&E's investigation and Columbia Gas bearing the expense, *inter alia*, to replace more than 45,000 feet of its Fayetteville system pipeline, this factor weighs in favor of an agreed upon

civil penalty of \$535,000. *Cf., Pennsylvania Pub. Util. Comm'n, Bureau of Investigation & Enf't v. Sunoco Pipeline, L.P.*, No. C-2018-3006534, 2019 WL 7403545 (Dec. 18, 2019) (imposing civil penalty of \$200,000 when Sunoco experienced a leak due to corrosion, which only potentially affected very few customers.) All of these factors, in addition to the allegations brought forth that initiated I&E's informal investigation, fully support the civil penalty amount and the modification of operational practices to be taken by Columbia and are in the public interest.

Additionally, I&E takes note of the current uncertainty and challenges facing the Parties during this COVID-19 pandemic. Due to COVID-19, a hearing in this matter would potentially have to be held virtually or telephonically, which would be a challenge to both Parties in light of the volume and type (paper, electronic recording, testimonial, etc.) of evidence which may be offered. Thus, whether the case was settled or litigated is of pivotal importance to this factor and allows the Parties to move forward and focus on implementing the agreed upon remedial actions without the challenges or time associated with litigation.

In conclusion, I&E fully supports the terms and conditions of the Settlement Agreement. The terms of the Settlement Agreement reflect a carefully balanced compromise of the interests of the Parties in this proceeding. The Parties believe that approval of this Settlement Agreement is in the public interest. Acceptance of this Settlement Agreement avoids the necessity of further administrative and potential appellate proceedings at what would have been a substantial cost to the Parties.

**WHEREFORE**, I&E supports the Settlement Agreement as being in the public interest and respectfully requests that the Commission approve the Settlement in its entirety without modification.

Respectfully submitted,

A handwritten signature in black ink that reads "Matthew C. Fallings". The signature is written in a cursive style with a large, sweeping flourish at the end.

Matthew C. Fallings

Prosecutor

Bureau of Investigation and Enforcement

PA Attorney ID No. 326896

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Dated: June 8, 2021

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
	:	
v.	:	Docket No.: M-2021-3005572
	:	
Columbia Gas of PA, Inc.	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Served via Electronic Mail Only**

Theodore J. Gallagher, Esq.  
Columbia Gas of PA, Inc.  
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Canonsburg, PA 15317  
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