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June 9, 2021

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed for filing in the referenced matter please find Columbia Gas of Pennsylvania, Inc.'s Statement in Support of Settlement Agreement.

If you have any questions regarding this filing, please do not hesitate to call me at 724-416-6355.

Very truly yours,

  
Theodore J. Gallagher

enclosure

cc (via e-mail):  
Office of Special Assistants  
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 Pennsylvania, Inc.,	:	
Respondent	:	

**COLUMBIA GAS OF PENNSYLVANIA, INC.’s**  
**STATEMENT IN SUPPORT OF SETTLEMENT AGREEMENT**

Columbia Gas of Pennsylvania, Inc. (“Columbia Gas” or “the Company”), by and through its counsel, hereby respectfully submits its Statement in Support of the Settlement Agreement (“Settlement Agreement”) submitted in the captioned proceeding. The terms and conditions of the Settlement Agreement are in the public interest and represent a fair, just, reasonable, and equitable resolution of the matters described therein. Approval of the Settlement Agreement is consistent with the Commission’s *Policy Statement for Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations*, 52 Pa. Code § 69.1201.

Columbia Gas and the Commission’s Bureau of Investigation and Enforcement (“I&E”) engaged in extensive exchange of information and negotiation and, as a result, I&E and the Company have agreed upon the terms embodied in the Settlement Agreement. Columbia Gas submits that the Settlement Agreement is in the public interest, as supported by the following factors:

## **I. BACKGROUND**

1. As the Joint Petition for Approval of Settlement (“Joint Petition”) indicates, this matter resolves an informal investigation initiated by I&E 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.

2. I&E and other bureaus with enforcement authority are the entities established by statute to initiate proceedings against public utilities that are prosecutory in nature. (*Delegation of Prosecutory Authority to Bureaus with Enforcement Responsibilities*, M-00940593, Order entered September 2, 1994), as amended by Act 129 of 2008, 66 Pa.C.S.A § 308.2(a)(11). Moreover, 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.

3. Columbia Gas has its principal place of business located in Canonsburg, Pennsylvania and at all times relevant to this proceeding was a public utility, as defined by 66 Pa.C.S. § 102, engaged in providing natural gas service to the public for compensation.

## **II. PARTIES’ POSITIONS**

4. The averments of I&E contained in the Settlement Agreement were formulated without the benefit of a hearing and certain averments are or may be disputed by Columbia Gas.

5. The Parties’ agreement to settle the matters described in I&E’s averments was made without any admission or prejudice to any position that they might adopt during any subsequent administrative or court proceeding of whatever nature, including any necessary

subsequent litigation of the issues addressed in the Settlement Agreement in the event that this settlement is rejected by the Commission or otherwise properly withdrawn by either of the parties.

### III. SETTLEMENT AGREEMENT

6. The parties to the Settlement Agreement have engaged in extensive and detailed discussions with respect to the allegations and defenses relating to each of the matters described in Paragraphs 17 through 22 of the Settlement Agreement. The purpose of this Settlement Agreement is to resolve these matters without litigation in a manner that minimizes concerns regarding future similar events.

7. Columbia Gas has been cooperative and pro-active in addressing the concerns identified in Paragraphs 17 through 22 of the Settlement Agreement.

8. Based upon the foregoing, the parties have agreed to the entry of an Order directing as follows in Paragraphs 9 through 16, below:

9. Columbia Gas agrees to pay a total civil penalty of \$535,000, identified as follows:<sup>1</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>1</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;

10. 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;

11. 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:

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;

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);

This inventory shall also include inlet and outlet pressures of the station;

From this list, Columbia Gas shall develop a process to rank the risk specifically on the bypass valves across the distribution system, and;

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

12. Columbia Gas shall abide by its newly implemented procedures regarding the use of bypass valves to that technicians properly determine whether bypass valves are opened or closed in in proper working order; <sup>2</sup>

13. 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

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<sup>2</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.

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

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

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.

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.

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;

15. 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;

16. Beginning April 27, 2021, Columbia Gas has implemented pilot Standard Operation 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 inspections:

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

17. In consideration of the Columbia Gas' payment of a civil penalty in the amount of \$535,000, as described herein, and implementation and completion of the measures described above in Paragraphs 10 through 16 of this Statement in Support, I&E has expressly agreed to forbear the institution of any formal complaint or other informal investigation that relates to the Columbia Gas' conduct as alleged in Paragraphs 17 through 22 of the Settlement Agreement.

18. Nothing in the Settlement Agreement shall affect the Commission's authority to receive and resolve any informal or formal complaints filed by any affected party with respect to the alleged events covered by the Settlement Agreement, except that no further enforcement action, including but not limited to civil penalties, shall be imposed by the Commission on Columbia Gas for any actions that are within the scope of the Settlement Agreement.

19. Columbia Gas submits that the Settlement Agreement is in the public interest, and therefore requests that the Commission approve the Settlement Agreement as in the public

interest. The Settlement Agreement is expressly conditioned upon the Commission's approval under applicable public interest standards without modification, addition, or deletion of any term or condition herein. The parties have agreed that if the Commission Order substantively modifies the terms of the Settlement Agreement, any party may give notice to the other that it is withdrawing from the 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 the Settlement Agreement with substantive modifications of its terms. In the event that a party withdraws from the Joint Petition for Approval of Settlement, I&E and Columbia Gas jointly agree that nothing in the 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.

20. Nothing contained in the Settlement Agreement may be used or construed by any person as an admission of any fact by Columbia Gas. The Settlement Agreement is proposed by the Parties without any admission against, or prejudice to, any position which any Party may adopt during any subsequent administrative or court proceeding of whatever nature.

#### **IV. COMPLIANCE WITH THE COMMISSION'S POLICY STATEMENT ON LITIGATED AND SETTLED PROCEEDINGS INVOLVING VIOLATION OF THE PUBLIC UTILITY CODE AND COMMISSION REGULATIONS**

21. Columbia asserts that approval of the Settlement Agreement is consistent with the Commission's *Policy Statement for Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations*, 52 Pa. Code § 69.1201 ("Policy Statement").

22. Under this Policy Statement, the Commission will consider specific factors when evaluating settlements of alleged violations of the Public Utility Code and Commission's Regulations. These factors are: (1) Whether the conduct at issue was of a serious nature, such as

willful fraud or misrepresentation; (2) Whether the resulting consequences of the conduct at issue were of a serious nature, such as personal injury or property damage; (3) Whether the conduct at issue was deemed intentional or negligent (may only be considered when evaluating litigated cases); (4) Whether the regulated entity made efforts to modify internal policies and procedures to address the conduct at issue and prevent similar conduct in the future; (5) The number of customers affected and the duration of the violation; (6) The compliance history of the regulated entity that committed the violation; (7) Whether the regulated entity cooperated with the Commission's investigation; (8) The amount of the civil penalty or fine necessary to deter future violations; (9) Past Commission decisions in similar situations; and (10) Other relevant factors. 52 Pa. Code § 69.1201(c).

23. When applied to settled cases, the Commission will not apply the standards as strictly as it will in litigated cases. 52 Pa. Code § 69.1201(b).

24. With regard to the first standard and starting point in the Policy Statement, whether the conduct at issue was of a serious nature, such as willful fraud or misrepresentation, there is no suggestion in the descriptions of alleged violations in the Settlement Agreement that Columbia Gas engaged in willful fraud or misrepresentation. Rather, the alleged conduct was in the nature of technical errors, which the Policy Statement characterizes as "less egregious." Thus, while issues of line pressurization and gas valve operations are, by nature, serious matters, Columbia Gas submits that its conduct at issue was not of a serious nature within the meaning of the Policy Statement, since it did not involve willful fraud or misrepresentation.

25. With regard to the second standard set out in the Policy Statement, whether the resulting consequences attributable to the conduct at issue were of a serious nature, Columbia submits that its conduct, as described in the Settlement Agreement, did not result in serious

consequences. While the incidents described in Paragraphs 17 through 22 of the Settlement Agreement involved pressure excursions in excess of Maximum Allowable Operation Pressure (“MAOP”), it is important to note that there are no allegations in the Joint Motion for Approval of Settlement that those excursions resulted in any injury to persons or property. Regarding the Rimersburg overpressurization described in Paragraphs 17 and 18 of the Settlement Agreement, Columbia submits that a mitigating factor is that there was an oil seal at the regulator station at issue which continually relieved pressure on the Rimersburg system during the event. This continual pressure relief functioned as it is designed and prevented injury to persons or property. Regarding the Chambersburg overpressurization described in Paragraphs 19 through 21 of the Settlement Agreement, each service line on that system has a service regulator that is rated to at least 125 pounds per square inch gauge (“psig”), which protected customers when the pipeline exceeded MAOP but did not exceed 125 psig.

26. Since this is a settled matter, the third standard set out in the Policy Statement, whether the alleged conduct at issue was intentional or negligent, is not at issue.

27. Under the fourth standard in the Policy Statement, the Commission will consider modifications that may include activities such as training and improving company techniques and supervision, as well as the time it took to correct the conduct, and the involvement of top-level management in correcting the conduct. All of these considerations weigh in favor of approval of approving the Settlement in this matter. The Settlement Agreement describes changes to Columbia Gas training protocols, physical modifications to its distribution system, as well as modifications to its record-keeping protocols, as described in Paragraphs 26 through 32 of the Settlement Agreement. With respect to the timing it has taken to make corrections, it

should be noted that Columbia Gas implemented several of its corrective measures prior to the submission of the Settlement Agreement for the Commission's consideration, such as:

- (a) the 2019 implementation of the Safety Management System, as described in Paragraph 26 of the Settlement Agreement;
- (b) the 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, as described in Paragraph 28 of the Settlement Agreement;
- (c) the implementation of NiSource Inc.'s Operational Notice 19-05, as described in Paragraph 29 of the Settlement Agreement;
- (d) 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, as described in Subparagraph 30.a of the Settlement Agreement;
- (e) the April 2021 implementation of pilot Standard Operating Procedures regarding shut down and start up of District Regulator Stations, as described in Paragraph 32 of the Settlement Agreement.

28. Regarding the fifth standard in the Policy Statement, the Rimersburg event occurred between May 16, 2018 and June 12, 2018 and the Fayetteville event occurred over the three day period January 9, 2018 through January 12, 2018. The duration of the events is reflected in the proposed civil penalties associated with the Rimersburg event (\$400,000) and the Fayetteville event (\$90,000). As recited in the Joint Motion, the Rimersburg system serves 420 active customers and the Fayetteville system serves 966 active customers. No customers on

these systems lost service due to system failure associated with the events. Rather, temporary service interruptions occurred during the Company's remediation activities.

29. Regarding the sixth standard in the Policy Statement, in 2014 the Commission assessed a civil penalty of \$200,000 as part of an Order that modified a Settlement Agreement between Columbia and I&E that involved allegations of six instances of overpressurization. *See* Docket No. M-2014-2306076. The increased civil penalties that have been agreed upon between Columbia and I&E in the instant matter reflect that history.

30. Regarding the seventh standard in the Policy Statement, Columbia cooperated fully with I&E in its investigation. There are no facts alleged that would tend to establish bad faith on the part of Columbia Gas, active concealment of violations, or attempts to interfere with the Commission's investigation.

31. Regarding the eighth standard in the Policy Statement, Columbia Gas submits that the civil penalty of \$535,000 will adequately serve to deter future violations. The assessment of a \$535,000 civil fine will be more than double the highest civil penalty that the Commission has assessed against Columbia Gas to date.

32. Regarding the ninth standard in the Policy Statement, please see Paragraph 29, above.

33. Regarding the tenth standard in the Policy Statement, Columbia Gas submits that that it is in the public interest to settle this matter so as to avoid the expense of litigation. Moreover, the Settlement is in the public interest because it will result in public benefits that will promote gas safety and reliability in Columbia's service territory.

34. Columbia Gas submits that both Parties' efforts have resulted in fair and equitable settlement that is in the public interest. The Commission has consistently encouraged

settlements to avoid the time and expense associated with litigation. The parties submit that the Settlement Agreement is in the public interest because it recognizes the alleged incidents, while effectively addressing and resolving the issues raised by the investigation, and avoids the time and expense of litigation, which entails hearings, filings of briefs, exceptions, reply exceptions, and appeals. The Company has also agreed to pay a civil penalty and to comply with the Commission's Regulations. The Settlement Agreement clearly meets the standards set forth in Section 69.1201.

**WHEREFORE**, Columbia Gas of Pennsylvania, Inc. respectfully requests that the Pennsylvania Public Utility Commission adopt an order approving the terms of the Settlement Agreement as being in the public interest.

Respectfully submitted  
COLUMBIA GAS OF PENNSYLVANIA, INC.

By:   
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NiSource Corporate Services Co.  
121 Champion Way, Suite 100  
Canonsburg, PA 15317  
724-809-0525  
tjgallagher@nisource.com

Date: June 9, 2021

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

**VIA E-MAIL ONLY**

Matthew Fallings  
Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
[e-mail mfallings@pa.gov](mailto:mfallings@pa.gov)

Dated: June 9, 2021

  
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Theodore J. Gallagher