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June 28, 2022

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

**Re: Lawrence Teleshak v. Columbia Gas of Pennsylvania, Inc.
Complaint Docket No. C-2022-3032838**

Dear Ms. Chiavetta:

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

Sincerely,



Larry R. Crayne

Enclosure

cc: Lawrence Teleshak
P.O. Box 212
Weare, NH 03281

Commonwealth of Pennsylvania

Before the Pennsylvania Public Utility Commission

In the Matter of:

Lawrence Teleshak,
Complainant,

Complaint Docket
No. C-2022-3032838

VS.

Columbia Gas of Pennsylvania, Inc.,
Respondent.

Preliminary Objections

AND NOW comes Respondent, Columbia Gas of Pennsylvania, Inc. (Columbia), pursuant to 52 *Pa. Code*, Section 5.101 (a) (1), and files the following Preliminary Objections:

A. Lack of Commission Jurisdiction

1. Columbia has proposed to relocate a natural gas pipeline (the "Pipeline") on Complainant's properties located in Crescent Township, Allegheny County, Pennsylvania ("the Properties"). Columbia avers that the relocation of the Pipeline is necessary by reason of the age and corrosion of the existing Pipeline. Columbia further avers that renewal of the existing Pipeline in its current location is not feasible by reason of constructability and erosion concerns.

2. Negotiations have occurred between Complainant and Columbia for the possible relocation of the existing Pipeline and for the purchase of a new right-of-way across the Properties, and those negotiations are ongoing. Columbia has made a reasonable offer to purchase the Properties in fee from Complainant. However, Columbia's offer has been refused by Complainant. Complainant has indicated an intent to have an independent appraisal of the Properties. Therefore, Complainant's plan for an independent appraisal makes it plain that this is a matter of private negotiations between Complainant and Columbia for the purchase of the Properties.

3. The Complaint in this proceeding requests the Public Utility Commission (the "Commission") to mediate what amounts to a matter of property law between Complainant and Columbia regarding the location of the new Pipeline to be constructed and/or renewed on Complainant's Properties. This is a clearly a matter for civil court.

4. Other cases have clearly stated that the Commission does not have the statutory jurisdiction to adjudicate and determine the responsibility of Columbia to Complainant by reason of the work necessary to be performed to replace and/or possibly relocate the Pipeline. See, *Jo Ann Nelson/Mary Snezak v. Columbia Gas of Pennsylvania, Inc.*, Case No. 20028763, Order

entered April 21, 2003 and *Lou Amati/Amati's Service Station v. West Penn Power Company*, Case No. C-00945842. Also see, *Boczar v. PPL Electric Utilities Corp.*, Case No. C-20016332, Order entered February 10, 2003, which concludes: "...the question of whether utility facilities are located on private property pursuant to valid easements or rights-of-way is a substantive property rights issue which is within the exclusive jurisdiction of the courts." Further, if the Commission should conclude that Columbia was responsible for damage to Complainant's property, the Commission does not have the power to grant monetary damages to Complainant. See, *Feingold v. Bell of PA.*, 777 Pa. 1; 282 A.2d 1191 (1977).

B. Complainant does not have Right to Demand an Independent Review of Columbia's Proposed Renewal and/or Relocation of the Pipeline.

5. Regarding Complainant's demand for an "independent review" of Columbia's plan to renew and/or relocate the Pipeline, Columbia avers that Complainant has been advised that any renewal or relocation of the Pipeline will be in strict compliance with applicable Federal and State pipeline construction and/or renewal standards. Therefore, Columbia avers that any advance review of Columbia's plans for renewal and/or relocation of the Pipeline would be in violation of Columbia's right to manage the construction or renewal of the Pipeline.

6. The Public Utility Commission is not a super board of directors for the public utility companies of the State and it has no right of management of them. *Northern Pa. Power Co., et al. v. Pa. PUC*, 333 Pa. 265. The Commission is not the financial manager of the utility and is not a super board of directors for a public utility. The sole power of the Commission is to see that in the matter of rates, service and facilities their treatment of the public is fair. *Meyers v. Pa. Super.* 431. Consequently, Complainant cannot lawfully demand a preemptive review of Columbia's plans to renew and/or relocate the existing Pipeline on Complainant's property.

7. The Commission is a creature of statute and may exercise only those powers that are expressly conferred upon it by the legislature. *Tod and Lisa Shedlosky v. Pennsylvania Electric Company*, Docket No. C-20066937 (Order entered May 28, 2008; *Feingold v. Bell of Pennsylvania*, 383 A.2d 791 (Pa.1978. The Commission is not the proper forum to resolve property right controversies, rather that is a matter for a court of general jurisdiction. See, *Anne E. Perrige v. Metropolitan Edison Co.*, Docket No. C-00004110 (Order entered July 3, 2003). See also, *Fiorillo v. PECO Energy Co.*, Docket No. C-00971088 (Order entered September 15, 1999) (citing *Lou Amati/Amati Service Station v West Penn Power Co. and Bell Atlantic Pennsylvania, Inc.*, Docket No. C-00945942 (Order entered October 25, 1995) where the Commission stated that real property issues, such as trespass and whether or not utility facilities are located pursuant to valid easements or rights-of-way, are within the exclusive jurisdiction of the courts of common pleas of the Commonwealth.

8. Complainant's demand for an independent review of Columbia's decisions regarding the renewal and/or relocation of the Pipeline would be preemptive of the right of the management of Columbia to make appropriate decisions regarding the manner in which Columbia provides natural gas service to the public, is not proper under applicable law and is beyond the authority of the Commission. The sole power of the Commission is to see that in the

matter of rates, service and facilities their treatment of the public is fair and can only intervene after the fact to enforce reasonable rates and for accommodation and necessity.

9. Columbia has had extensive discussions with Complainant beginning in December 2021 regarding the need to replace a section of the Pipeline off of Riverview Road in Crescent, PA. with the construction to begin in the summer of 2022. Complainant has responded with both an alternative location for the Pipeline across his property and a desire to obtain an independent appraisal of the value of the Properties. Consequently, Complainant's intent makes it clear that this controversy is a matter for civil court either for a determination of damages or for a determination of the proper exercise of Columbia's power of eminent domain.

Wherefore, Columbia moves that this Complaint be dismissed for the reason that this matter involves a determination of the rights and responsibilities between Complainant and Columbia regarding the renewal and/or the possible relocation of the Pipeline on Complainant's Properties, a matter which should be adjudicated in a civil court which has the power to decide the substantive property rights and responsibilities of the parties and award damages if appropriate.

Notice to Plead

To: Lawrence Teleshak;

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

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

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

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

Respectfully submitted,
Columbia Gas of Pennsylvania, Inc.

By: 
Larry R. Crayne, Esq.

VERIFICATION

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

Date: 6-28-2022

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

Certificate of Service

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

Lawrence Teleshak
P.O. Box 212
Weare, NH
lteleshak@gmail.com

Dated this 28th day of JUNE, 2022



Larry R. Crayne
238 Johnston Road
Pittsburgh, PA 15241

Counsel for
Columbia Gas of Pennsylvania, Inc.