

COMMONWEALTH OF PENNSYLVANIA



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July 27, 2022

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-2022-3012079

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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Certificate of Service

*333068

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement : Docket No. M-2022-3012079
v. :
Columbia Gas of PA, Inc. :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 27th day of July 2022.

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Dated: July 27, 2022
*333072

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement :
 : Docket No. M-2022-3012079
v. :
 :
Columbia Gas of Pennsylvania, Inc. :

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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I. BACKGROUND AND INTRODUCTION

On March 4, 2022 the Commission's Bureau of Investigation and Enforcement (I&E) and Columbia Gas of Pennsylvania, Inc., (Columbia or Company) (collectively, the Parties) filed a proposed Joint Petition for Approval of Settlement (Settlement or Petition) with respect to an investigation conducted by I&E. On June 16, 2022, the Pennsylvania Public Utility Commission (Commission) issued a Tentative Order to provide an opportunity for interested parties to file comments regarding the proposed Settlement. Pursuant to the Tentative Order, interested parties had twenty-five days to submit comments after the Tentative Order was posted in the Pennsylvania Bulletin. The Tentative Order was published in the Pennsylvania Bulletin on July 2, 2022. Accordingly, comments are due by July 27, 2022.

The Tentative Order describes an overpressurization event that occurred on Columbia Gas' distribution system on July 31, 2019. Tentative Order at 2. The overpressurization of a part of Columbia's distribution system caused an explosion that completely destroyed one residential home located at 100 Park Lane, Washington County, caused the condemnation of another residence due to severe damage, damaged several other nearby homes, severely damaged three vehicles and caused personal injury to at least four people. *Id.* I&E started an investigation of this event shortly after the explosion, on July 31, 2019. *Id.*

I&E's investigation found that Columbia was upgrading a portion of its distribution system to operate at a higher pressure. Tentative Order at 3. During the planning and implementation of this project, Columbia had identified approximately 60 customers that would be impacted by the higher pressure. *Id.* Columbia, however, failed to identify that 100 Park Lane was also connected to this part of the system and that residence did not have a service regulator. *Id.* I&E concluded that the introduction of the higher pressure caused gas to leak from appliances at 100 Park Lane and resulted in the explosion. *Id.*

The proposed Settlement terms are fully set out in the Petition, and for purposes of brevity will not be reproduced here. Settlement at 13-16. As explained in these Comments, the OCA has several concerns related to the proposed Settlement:

- The terms of the Settlement do not include any timeframe in which Columbia must have the corrective measures completed, nor do they include any follow up checks and or/reporting obligations as to either Columbia or I&E's Gas Safety Division.
- The record is devoid of any details or accounting as to the actual monetary damage that was sustained as a result of this event and who is paying for it, Columbia, ratepayers, or other?

Based on an examination of the factors that are examined in order to arrive at a reasonable civil penalty, the OCA submits that the civil penalty proposed in this matter may be insufficient. As such, the OCA submits that the Commission should not approve this Settlement based on the record before it at this time. Further facts and clarifications should be sought from both I&E and Columbia prior to any final decision being reached in this matter. The OCA provides the following comments on this matter.

II. COMMENTS

The OCA appreciates the opportunity to submit comments on behalf of Pennsylvania consumers¹ as to the proposed Settlement. As the Tentative Order provides, before approving the Settlement, Commission must determine whether the terms and conditions are consistent with the public interest, and thus should be approved. Tentative Order at 11. Taken together, however, the Petition, I&E's Statement in Support and Columbia's Statement in Support do not contain

¹ Act 161 of the Pennsylvania General Assembly, 71 P.S. Section 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Commission.

sufficient safeguards and also do not contain sufficient information as to cost responsibility for this overpressurization event. As such, the OCA submits that the Commission should not approve the Settlement at this time.

A. The Settlement Should Contain Specific Timeframes As To When Columbia Must Have The Agreed To Corrections To Its System Completed, And Should Also Provide For A Public Report On Such Corrections.

The Settlement sets out a series of corrective actions that Columbia must take in order to prevent a similar event from occurring in the future. Petition at 13-16. Yet, considering the very serious nature of the explosion that occurred, there is no timeframe as to when Columbia must have these corrections completed. The only mention of any time period as to the corrective actions is as follows:

Columbia Gas recognizes the seriousness of this matter and will promptly take the following steps to prevent a similar occurrence.

Petition at 14. The OCA submits that given the significant risk to public safety due to the nature of Columbia's operations, Columbia's customers and the general public deserves much more than Columbia's agreement to *promptly* act to address these corrective actions. Accordingly, the OCA recommends the following:

1. A timeframe should be established as to when Columbia will have all of the corrective actions completed;
2. Columbia should provide a report to I&E's Gas Safety Division detailing the corrective actions that have been taken, or are in the process of being completed; and,
3. I&E and Columbia, jointly, should prepare a public report to inform the Commission, Columbia's customers and the general public to ensure that all corrective actions have been taken as set out in the Settlement.

The Commission should require that these actions be taken as part of the Settlement agreement in order to ensure transparency and to ensure that approval of the Settlement meets the public interest standard.

B. The Commission Should Require A Public Accounting Of The Monetary Damages Resulting From The Destruction And Damage To Personal Property, Personal Injuries, And The Attendant Liability.

The explosion caused significant damage to numerous homes, vehicles, and at least four people were injured. Tentative Order at 2. The record of this event, as set out in the Joint Petition, or in either Columbia's or I&E's Statements in Support, fail to provide the amount of money that was needed to resolve all of the various damage and injury claims that were surely a part of this event. Further, there are also no facts provided to establish the ultimate monetary liability for this event. The OCA submits that Columbia's ratepayers deserve a full accounting of this event and also a clear understanding of who is paying for it.

The OCA submits that additional information is needed in this area before the Commission can adequately assess whether the Settlement as proposed is truly in the public interest. The Commission should solicit further information from both I&E and Columbia as to the intended cost responsibility for this event, as the current record is incomplete on this important aspect of the proposed Settlement.

C. The Commission Should Require Additional Information From Columbia In Order to Determine Whether The Proposed Civil Penalty Is Appropriate.

The Settlement provides that Columbia will pay a civil penalty of \$990,000, and that no part of that penalty will be recoverable or tax deductible. Tentative Order at 6-7. In I&E's Statement in Support, there is a recitation of the ten factors that the Commission generally evaluates to determine whether a particular civil penalty fits the facts presented. I&E SIS at 9-16. I&E's discussion in this area details the facts of this event, and attempts to provide support for the

agreed-to civil penalty of \$990,000 as “sufficient to deter the Company from committing future violations of the nature alleged here ...” I&E SIS at 15. The OCA submits that additional details and facts are necessary in order to reasonably evaluate whether the proposed \$990,000 penalty is actually sufficient.

Specifically, in reviewing the eighth factor to be considered, I&E alleges that the \$990,000, “in combination with the monetary cost of the performance of all of the remedial measures” is a sufficient deterrent. I&E SIS at 15. The cost of the corrective actions, however, is not a matter of record at this point. Further, and more importantly, the record is also silent as to whether Columbia’s shareholders or Columbia’s ratepayers are paying for these corrective actions that Columbia has agreed to perform. If in fact these costs are being passed through to Columbia’s ratepayers, the civil penalty amount should be seriously reconsidered. Paying for corrective actions with ratepayer funds would provide little in the way of deterrence or punishment for Columbia’s actions, and thus significantly increased penalties may be called for depending on the resolution of who pays the costs of the corrective actions to be implemented by Columbia. Moreover, as discussed in Section B. above, a full accounting of the monetary damages incurred due to the destruction of property and personal injuries should also be considered as to the ultimate determination of an appropriate civil penalty. Additional information should be sought from Columbia before the Commission can reasonably determine whether the agreed-to \$990,000 civil penalty is actually a sufficient deterrent to ensure against future violations.

III. CONCLUSION

For the reasons discussed in these Comments, the OCA submits that the Commission should not approve the proposed Settlement based on the record before the Commission at this time. The record is incomplete in several important areas. Specifically, there is no timeframe for the corrective actions to be completed, and there is insufficient information as to cost responsibility for the event. The OCA submits that these are important factual issues that must be resolved before the Commission can reasonably determine whether the proposed Settlement is in the public interest and therefore should be approved.

Respectfully submitted,

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