



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

March 17, 2023

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's Investigation of Columbia Gas of Pennsylvania, Inc.'s Overpressure Incidents that occurred in Rimersburg, PA and Fayetteville, PA Docket No. M-2021-3005572

Revised Joint Petition for Approval of Settlement

Dear Secretary Chiavetta:

Enclosed for electronic filing is the **Revised Joint Petition for Approval of Settlement** in the above-referenced proceeding, including Columbia Attachment 1 as well as the following Appendices: Appendix A - Proposed Ordering Paragraphs; Appendix B – Statement in Support of the Bureau of Investigation and Enforcement; and Appendix C – Statement in Support of Columbia Gas of Pennsylvania, Inc.

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,

Michael L. Swindler
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MLS/ac
Enclosures

cc: Kathryn G. Sophy, Director, OSA (*via email only – Word version*)
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Richard A. Kanaskie, Director, I&E (*via email only*)
Robert Horensky, Manager, I&E Safety Division (*via email only*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility :
Commission, Bureau of Investigation :
and Enforcement’s Investigation of : Docket No. M-2021-3005572
Columbia Gas of Pennsylvania, Inc.’s :
Overpressure Incidents that occurred in :
Rimersburg, PA and Fayetteville, PA :

REVISED JOINT PETITION FOR APPROVAL OF SETTLEMENT

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” or “PUC”) Bureau of Investigation and Enforcement (“I&E”) and Columbia Gas of Pennsylvania, Inc. (“Columbia Gas” or “Company”) hereby submit this Revised Joint Petition for Approval of Settlement (“Settlement” or “Settlement Agreement”) to resolve all issues related to the informal investigation conducted by I&E regarding two separate overpressure incidents on Columbia Gas’s distribution systems that occurred in Rimersburg, PA between May 16 and June 12, 2018 in and Fayetteville, PA between January 9 and 12, 2018.¹ With the inclusion of the additional information sought by the Commission in its May 20 Order within the body of the Settlement, the Statements in

¹ I&E and Columbia Gas originally filed a Joint Petition for Approval of Settlement on June 8, 2021, at the above docket. By Tentative Order entered February 3, 2022, the Commission afforded interested parties an opportunity to file comments on the settlement. Comments were filed by Richard Culbertson, Columbia Gas and the Office of Consumer Advocate. By Opinion and Order entered May 20, 2022 (“May 20 Order”), the Commission denied the Petition and referred the matter back to I&E in order for the parties to further develop the following:

- (1) more specificity regarding the facilities that required replacement;
- (2) clarity regarding the parties’ positions on Columbia Gas’s ability to recover/seek recovery of the cost of replacement facilities in rate base; and
- (3) clarity regarding what damage to customer property resulted due to the overpressure events.

May 20 Order at 21-22.

Support and the attachment designated Columbia Attachment 1, I&E and Columbia Gas (hereinafter referred to collectively as the “Parties” or “Joint Petitioners”) respectfully request that the Commission enter a Final Opinion and Order approving the Settlement, as revised, without modification for the compelling public interest reasons set forth, *infra*.

Proposed Ordering Paragraphs are attached as Appendix A and Statements in Support of I&E and Columbia are attached as Appendices B and C, respectively.

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 bureau within the Commission 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. Columbia Gas is a “public utility” as that term is defined at 66 Pa.C.S. § 102,² as it is engaged in providing public utility service as a natural gas distribution company (“NGDC”) to the public for compensation. Columbia Gas serves more than 442,000 customers in 26 counties in western, central, and south-central Pennsylvania.

5. 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.

6. 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.

7. 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.

² 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.

8. 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”) at the time of the overpressure events occurred, 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.

9. 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, and to apply the federal civil penalty. The federal pipeline safety laws and regulations proscribe the minimum safety standards for all natural gas and hazardous liquid public utilities in the Commonwealth.

10. Columbia Gas, 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 Gas related thereto.

12. This matter involves allegations related to overpressure events which occurred on Columbia Gas's distribution systems in Rimersburg, Pennsylvania and Fayetteville, Pennsylvania.

13. As a result of successful negotiations between I&E and Columbia Gas, the Parties 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. By way of its May 20 Order, the Commission sought additional detail and referred the matter back to I&E. Now, in this Revised Joint Petition, the Parties have provided enhanced language to the body of the Settlement, the Statements in Support and added Columbia Attachment 1 that clarify the positions of the Parties on the topics of concern to the Commission. The duly authorized Parties executing this Settlement Agreement, as revised, agree to the settlement terms set forth herein and urge the Commission to approve the Settlement as enhanced as being in the public interest.

II. BACKGROUND

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

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

16. As part of its investigation, I&E served one set of data requests to Columbia Gas on February 8, 2019, to which the Company responded on March 8, 2019.

17. 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 initial Settlement Agreement.

18. Additional collaboration between I&E and Columbia Gas following the May 20 Order formed the basis for this Revised Settlement Agreement.

A. Distribution System in Rimersburg, Pennsylvania

19. The first system, Rimersburg, served 420 active customers at the time of the incident, 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 overpressure 13 inches of water column above the maximum allowable operating pressure ("MAOP").³

20. 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 applied new grease to the valve.⁴

³ On June 12, 2018, while changing the pressure charts at the Cherry Run Regulator Station R-4046, a Columbia Gas regulator technician discovered that the Rimersburg system had recently experienced an overpressure event. 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 impacted 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 per its procedures, 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. The section of pipeline that was overpressurized was taken out of service and replaced as of December 7, 2018. However, the replacement was not due to the overpressure event but, rather, due to the age and condition of the facilities.

⁴ 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

21. The second system in Fayetteville served 966 active customers at the time of the incident. I&E found that between January 9, 2018 and January 12, 2018, the Ausherman Regulator Station, R-3523, located in Fayetteville, was overpressurized because a technician failed to fully close the bypass valve after the valve had been opened to address a supply shortage.⁵

22. 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.

⁵ 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 supply the system.

On January 12, 2018, when repairing a meter that was struck by a vehicle, a Columbia Gas technician determined that the system had experienced an overpressure event. I&E Pipeline Safety inspectors were contacted by a Columbia Gas Compliance Manager and notified of an overpressure on the Fayetteville area system. Columbia Gas personnel informed the I&E 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's assistance reading the chart, it was determined that overpressure events occurred on three (3) occasions from January 9, 2018 to January 12, 2018.

23. 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 perspective compromised the integrity of the system and warranted an evaluation of the condition of the total system to determine whether and how much of the system warranted replacement.⁶ Accordingly, Columbia Gas conducted comprehensive leakage surveys and developed a targeted plan to replace approximately 45,000 feet of compromised facilities, or over one-third of the total system. A detailed record of the replaced facilities is attached as Columbia Attachment 1.

III. ALLEGED VIOLATIONS

24. Had this matter been fully litigated, I&E would have proffered evidence and legal arguments to support its allegations that Columbia Gas committed the following violations:

- a. Columbia Gas did not provide adequate protection against accidental overpressure.

If proven, I&E alleges that this conduct violated 49 CFR § 192.195 (protection against accidental overpressure);

- b. Columbia Gas did not adequately meet requirements for the design of pressure relief and limiting devices.

If proven, I&E alleges that this conduct violated 49 CFR § 192.199 (requirements for design of pressure relief and limiting devices);

⁶ 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.

- c. Columbia Gas did not prevent the system from exceeding the MAOP plus 6 psig.

If proven, I&E alleges that this conduct violated 49 CFR § 192.201 (relating to required capacity of pressure relieving and limiting stations);

- d. Columbia Gas did not adequately train its technicians to close a bypass valve, by listening to any gas leaks, thereby leading to the valve's incomplete closure and allowing gas to pass through the valve causing the Fayetteville system to overpressure.

If proven, I&E alleges that this conduct violated 49 CFR § 192.605 (relating to procedural manual for operations, maintenance, and emergencies.);

- e. Columbia Gas did not adequately protect the system from exceeding the MAOP.

If proven, I&E alleges that this conduct violated 49 CFR § 192.619 (relating to maximum allowable operating pressure – steel or plastic pipelines);

- f. Columbia Gas did not adequately protect the system MAOP because gas was bypassing the pressure limiting and regulating devices.

If proven, I&E alleges that this conduct violated 49 CFR § 192.743 (relating to pressure limiting and regulating stations: capacity of relief devices); and

- g. Columbia Gas did not adequately protect the public from danger.

If proven, I&E alleges that this conduct violated 66 Pa.C.S. §1501 (relating to the provision of reasonable, safe and adequate operation of utility services to the public).⁷

⁷ I&E recognizes 49 U.S.C. 60101 *et seq.*, and any regulation or order issued thereunder as implemented by 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. TERMS OF SETTLEMENT

25. Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest,⁸ the Parties held a series of discussions that culminated in the original settlement. Subsequent to the entry of the Commission's May 20 Order and referral of this matter back to I&E, the Parties engaged in further discussions in order to gather the additional information sought by the Commission so that the Commission could make an informed determination that the Settlement, as revised, is in fact in the public interest. I&E and Columbia Gas 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, as revised, for which the Parties seek Commission approval, are set forth below.

26. 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, as revised, without modification shall create the following rights and obligations:

a. Civil Penalty

Columbia Gas will pay a civil penalty in the amount of **\$535,000**.⁹ Said payment shall be made within thirty (30) days of the date of the Commission's Final Order approving the Settlement Agreement and shall be made by certified check or money order payable to "Commonwealth of Pennsylvania." The docket number of this

⁸ See 52 Pa. Code § 5.231(a).

⁹ 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 set forth 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.*

proceeding shall be included on the certified check or money order and the payment shall be sent to:

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

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).

b. Corrective Actions

Columbia Gas has taken or will take the following steps to voluntarily modify the following practices and procedures to prevent similar occurrences in the future:

- 1) 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 has included 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 Gas will update I&E on its findings and proposed process changes that result from SMS;
- 2) As part of its Gas Distribution Integrity Management Program (“DIMP”), Columbia Gas has included 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 is conducting an inventory of all bypass valves in its system in Pennsylvania. The inventory first focused on regulator stations on low pressure stations (completed as of December 31, 2021) and stations with greater than 125 psig inlet pressure (completed as of March 31, 2022). Columbia Gas will

complete inventory of the remaining systems within one (1) year 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.
- 3) 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;¹⁰
- 4) In addition to the above-mentioned procedures regarding bypass valves, Columbia Gas 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.

¹⁰ Such procedures, which include specific steps relating to verification of closed valves, have been added to Columbia Gas’s 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.

- b) If a bypass valve is operated, Columbia Gas 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 Gas should reevaluate the need to continue this process.
- 5) Columbia Gas has improved 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 has initiated a program to install remote electronic pressure monitoring devices which will warn Columbia Gas when pressures increase. Under that program, Columbia Gas will also:
 - (i) 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;
 - (ii) Prioritize systems identified as higher risk for installations of non-primary relief valves, and;
 - (iii) Provide I&E with a timeframe for the installation of downstream monitors, slam shut regulators and bypass valves;

- 6) Columbia Gas has added 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.
- 7) 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 Gas 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

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

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

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

30. 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 Settlement Agreement. In that event, any party may give notice to the other that it is withdrawing from this Settlement Agreement. 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 Revised Joint Petition for Approval of Settlement with

substantive modifications of its terms. The consequence of any party withdrawing from this 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 Settlement as set forth in this paragraph, I&E and Columbia Gas jointly agree that nothing in this Revised 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.

31. I&E and Columbia Gas jointly acknowledge that approval of this Settlement Agreement as revised per the May 20 Order 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 Revised Joint Petition for Approval of Settlement.

32. The Revised 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.

33. Since the Parties agree to the terms of the Revised 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.

34. 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 III. 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.

35. 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, Terms of Settlement. None of the provisions in this Settlement, as revised, 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 Gas 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.

36. 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 Pennsylvania, Inc. respectfully request that the Commission enter an Order approving the terms of the Revised 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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Date: March 17, 2023

By: 

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*Counsel for
Bureau of Investigation & Enforcement*

Date: March 17, 2023

Bare Steel Projects								
Job Order Number	Name	Footage Installed	Type	Footage Retired	Type	Status	Services Replaced	Services Tied Over
16-0213689-02	Franklin Farm Ln	191	2" PMMP	154	4" PL 2015	COMPLETE	2	0
		2779	4" PMMP	6	4" CS 2015			
				3500	4" Bare Steel 1969			
				34	4" Bare Steel Unkwn			
				6	4" CS 1969			
				19	4" PL 2007			
				1	4" CS 2005			
				28	4" PL 2005			
3534 feet Bare Steel retired								
		2,970	Total Installed	3748	Total Retired			

Aldyl-A Projects								
Job Order Number	Name	Footage Installed	Type	Footage Retired	Type	Status	Services Replaced	Services Tied Over
18-0214199-00	Sherwood Drive	1,024	2" PMMP	18	2" CS 1967	COMPLETE	5	2
		11	2" CSMP	346	2" PL 1971			
				730	1.25" PL 1971			
				5	2" PL 1985			
				2	2" PL 1986			
		1,035	Total Installed	1101	Total Retired		7 Total Services	
18-0214201-00	1695 Lincoln Way E	1,475	2" PMMP	1,496	1968 Plastic	COMPLETE	4	1
				3	2005 Plastic			
		1,475	Total Installed	1,499	Total Retired		5 Total Services 2 Abandoned	
18-0214203-00	1712 Lincoln Way E	950	2" PMMP	310	2" PL 1970	COMPLETE	13	
				358	Interspersed			
				447	Pre 1965 CS			
		1,126	Total Installed (as of 7/11/18)	1115	Total Retired		13 Total Services	
		3,636	Total Installed	2,882	Total Aldyl-A Retired			
All Aldyl-A in system is retired, remaining section is Pre-1965 coated steel								

Coated Steel Projects								
Job Order Number	Name	Footage Installed	Type	Footage Retired	Type	Status	Services Replaced	Services Tied Over
18-0214283-00	Saint Johns Drive	669	4" PMMP	692	4" CS 1962	COMPLETE	2	3
		6	2" PMMP	4	4" CS 2005			
				7	4" PL 2005			
				29	2" PL 1987			
				2	2" PL 1800			
				24	4" PL 1987			
		675	Total Installed	758	Total Retired		5	Total Services
18-0214330-00	Woodstock Rd	2636	2" PMMP	3916	2" Pre-1965 CS	COMPLETE	20	12
		2367	4" PMMP	1050	4" Pre-1965 CS			
				402	2" Post-1965 CS			
				1	4" Post-1965 CS			
				3	4" PL 2003			
		5024	Total Installed	5372	Total Retired		0	Remaining
							32	Total Services
18-0214364-02	Harvest Lane	3624	2" PMMP	783	1.25" Pre-1965 CS	COMPLETE	30	59
		2533	4" PMMP	2227	2" Pre-1965 CS			
		2276	6" PMMP	4666	4" Pre-1965 CS			
				353	2" PMMP			
				191	4" PMMP			
		8433	Total Installed	8220	Total Retired		0	Total Services
18-0214362-00	Greenlea Way	2,850	2" PMMP	148	Plastic	COMPLETE	21	55
		5,067	4" PMMP	11,019	Pre-1965 CS			
		2,985	6" PMMP					
		11301	Total Installed	11,167	Total Retired		0	Total Services
18-0214316-00 Pre-1965 CS	Falling Spring Rd	6,305	2" PMMP	695	1.25" Pre-1965 CS	COMPLETE	33	41
		4,725	4" PMMP	7,285	2" Pre-1965 CS			
				4,780	4" Pre-1965 CS			
				336	6" Pre-1965 CS			
		11434	Total Installed	13096	Total Retire		0	Total Services

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility :
Commission, Bureau of Investigation :
and Enforcement’s Investigation of : Docket No. M-2021-3005572
Columbia Gas of Pennsylvania, Inc.’s :
Overpressure Incidents that occurred in :
Rimersburg, PA and Fayetteville, PA :

PROPOSED ORDERING PARAGRAPHS

1. That the Revised Joint Petition for Approval of Settlement filed on March 17, 2023 between the Commission’s Bureau of Investigation and Enforcement and Columbia Gas of Pennsylvania, Inc. is approved in its entirety without modification.

2. That, in accordance with Section 3301(c) of the Public Utility Code, 66 Pa.C.S. § 3301(c), within thirty (30) days of the date this Order becomes final, Columbia Gas of Pennsylvania, Inc. shall pay a civil penalty of Five-Hundred 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:

Rosemary Chiavetta, 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 customers of Columbia Gas of Pennsylvania, Inc.

4. Columbia Gas of Pennsylvania, Inc. agrees to promptly take the numerous corrective actions as expressly set forth in the Settlement Agreement that have yet to be implemented, if any.

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

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility :
Commission, Bureau of Investigation :
and Enforcement’s Investigation of : Docket No. M-2021-3005572
Columbia Gas of Pennsylvania, Inc.’s :
Overpressure Incidents that occurred in :
Rimersburg, PA and Fayetteville, PA :

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

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 Revised Joint Petition for Approval of Settlement (“Settlement” or “Settlement Agreement”) filed in the matter docketed above, submits this Statement in Support of the Settlement Agreement between I&E and Columbia Gas of Pennsylvania, Inc. (“Columbia Gas” or “Company”).¹ 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.

¹ I&E and Columbia Gas are collectively referred to herein as the “Parties.”

I. Background

I&E's investigation concerned overpressure incidents which occurred at Columbia Gas distribution networks in Rimersburg, Pennsylvania and Fayetteville, Pennsylvania. The overpressure incidents were the result of leaking bypass valves which allowed excess gas into the system.

A. Distribution System in Rimersburg, Pennsylvania

This matter began on or about June 12, 2018, when a Columbia Gas regulator technician changing the pressure charts at the Cherry Run Regulator Station R-4046 discovered that the Rimersburg system had recently experienced an overpressure event. 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 an outlet MAOP of 110 psig.²

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 applied new

² 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 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 classified this as a "Grade 2" leak. Columbia Gas then installed a drip tank on the 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. The section of pipeline that was over pressurized was taken out of service and replaced as of December 7, 2018. However, the replacement was not due to the overpressure event but, rather, due to the age and condition of the facilities.

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 served 966 active customers at the time of the incident. I&E found that between January 9, 2018 and January 12, 2018, the Ausherman Regulator Station, R-3523, located in Fayetteville, was overpressurized on three occasions because a technician failed to fully close the bypass valve after the valve had been opened to address a supply shortage.³

³ 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 on the Fayetteville area system. Columbia Gas personnel informed the I&E 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's 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 perspective compromised the integrity of the system and warranted an evaluation of the total system to determine whether and how much of the system warranted replacement. After conducting leak surveys, Columbia Gas developed a plan to replace over one-third of the entire system. See Columbia Attachment 1.

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 to reach the original Settlement which was filed with the Commission on June 8, 2021. Due to the desire for additional information as set forth in the May 20 Order, the matter was referred back to I&E at which time I&E and Columbia Gas engaged in further discussions in order to address the issues raised in the May 20 Order. These discussions culminated in the revised Settlement Agreement, to which this Statement in Support is attached, which, once approved, will resolve all issues related to I&E's investigation involving allegations related to the overpressure events at Columbia Gas'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 Gas and provide not only a substantial civil penalty, but a voluntary modification of the Company's operational practices. I&E's approach of seeking a civil penalty and modifications to the Company's operational practices seeks to ensure that Columbia Gas operates its facilities and uses equipment within the standards expected by the Commission, as well as ensure the safety of its personnel and the public at large.

Although I&E and Columbia Gas may disagree with respect to I&E's factual allegations, the Company recognizes the need to prevent a similar incident from reoccurring. Further, I&E recognizes that, given the inherent unpredictability of the outcome of a contested proceeding, the benefits of amicably resolving the disputed issues through

settlement outweigh the risks and expenditures of litigation. I&E submits that the Settlement, as revised, constitutes a reasonable compromise of the issues involved and is in the public interest as it provides for a number of relevant corrective measures as well as a civil penalty. As such, I&E respectfully requests that the Commission approve the Settlement without modification so that these important public benefits may be realized expeditiously.

III. Terms of Settlement

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

A. Civil Penalty

1. Columbia Gas agrees to pay a total civil penalty of **\$535,000**. Said payment shall be made within thirty (30) days of the date of the Commission's Final Order approving the Settlement Agreement and shall be made by certified check or money order payable to the "Commonwealth of Pennsylvania." The docket number of this proceeding shall be indicated with the certified check or money order and the payment shall be sent to:

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

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).

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 has included 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 Gas 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 has included 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 is conducting an inventory of all bypass valves in its system in Pennsylvania. The inventory first focused on regulator stations on low pressure stations (completed as of December 31, 2021) and stations with greater than 125 psig inlet pressure (completed as of March 31, 2022). Columbia Gas will complete inventory of the remaining systems within one (1) year 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;⁴
5. In addition to the above-mentioned procedures regarding bypass valves, Columbia Gas 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 Gas 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 Gas should reevaluate the need to continue this process.

⁴ Such procedures, which include specific steps relating to verification of closed valves, have been added to Columbia Gas’s 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 has improved 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 has initiated a program to install remote electronic pressure monitoring devices which will warn Columbia Gas when pressures increase. Under that program, Columbia Gas will also:
 - i) 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;
 - ii) Prioritize systems identified as higher risk for installations of non-primary relief valves, and;
 - iii) Provide I&E with a timeframe for the installation of downstream monitors, slam shut regulators and bypass valves;

7. Columbia Gas has added 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, the Company will ensure that the following

queries will be answered 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?

Upon Commission approval of the Settlement, as revised, in its entirety without modification, I&E shall be deemed to have released Columbia Gas from all past claims that were made or could have been made by the Commission for monetary and/or other relief based on allegations that the Company failed to comply with the allegations that were subject of I&E's investigation.

I&E and Columbia Gas jointly acknowledge that approval of this Settlement Agreement, as revised consistent with the May 20 Order, is in the public interest and fully consistent with the Commission's Policy Statement regarding Factors and Standards for Evaluating Litigated and Settled Proceedings, 52 Pa. Code § 69.1201. The Parties submit that the Settlement Agreement, as revised, is in the public interest because it effectively addresses I&E's allegations that are the subject of I&E's investigation, responds to the concerns set forth in comments to the original settlement and memorialized in the May 20 Order, promotes public and facility safety, and avoids the time and expense of litigation, which entails hearings, travel for Respondent's witnesses, and the preparation and filing of briefs, exceptions, reply exceptions, as well as possible appeals.

Moreover, the additional information provided by the Company in Columbia Attachment 1 to this Revised Joint Petition, as well as additional information set forth in the

body of the Settlement and Statements in Support, expressly and specifically address the concerns raised in the May 20 Order. Columbia Attachment 1 sets forth in detail the Fayetteville System 45,000+ feet of facilities replaced, first categorizing the various projects by material type (Bare Steel, Aldyl-A, Coated Steel), listing the Job Order Numbers under each material type, and providing detail regarding the footage installed and the footage retired. See Columbia Attachment 1.

As to the Parties' positions on the Company's ability to recover/seek cost recovery of the cost of replacement facilities in rate base, there was never any disagreement between the Parties regarding the Company's ability to seek recovery of the cost of replacement facilities in rate base. The reference in I&E's Statement in Support to the initial Settlement Petition that the Company did "bear the expense" of the facilities replacement was meant to express only that Columbia Gas made the necessary capital expenditure outlay to get the replacement started in an expedited fashion and was not intended to suggest that the Company had agreed not to ultimately seek recovery of those costs. I&E regrets the confusion. I&E avers that the determination of cost recovery is best suited to be raised in a Columbia Gas base rate proceeding, and not in this Settlement. Consistent with other settlements, Columbia Gas did agree to not seek recovery of any portion of the total civil penalty in any ratemaking proceeding, but no utility, including Columbia Gas in this instance, is precluded from potentially seeking cost recovery of costs incurred or to justify a proposed rate increase and this Settlement contained no agreement here to the contrary. This revised Settlement clarifies that there is no agreement that the Company would bear the expense of the replacement without seeking rate recovery. It is during a rate proceeding that parties such as

statutory advocates have the opportunity to challenge such evidence, and demand such accountings from the filing utility.⁵ Consequently, whether Columbia Gas will or will not seek or has or has not sought recovery of costs is not a necessary component of this Settlement that amicably resolves safety concerns and implements remedial measures that are clearly in the public interest.

Lastly, with regard to clarity regarding what damage to customer property resulted due to the overpressure events, the Parties have made it clear that no personal injury or customer property damage occurred as a result of the overpressure events in the Rimersburg and Fayetteville systems. Columbia Gas original Statement in Support at 11; I&E original Statement in Support at 18. Columbia Gas provides supplemental information that for Rimersburg, while there was no customer property damage, there was a necessity to relight some customer appliances which resulted in the shutdown of service to 12 customers for a cumulative total of only 7 hours.

IV. Legal Standard for Settlement Agreements

The Commission's policy is to promote 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.*

⁵ Subsequent to the events at issue that occurred in 2018, Columbia Gas filed base rate cases in 2020 (Docket No. R-2020-3018835), 2021 (Docket No. R-2021-3024296), and 2022 (Docket No. R-2022-3031211).

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, as revised per the May 20 Order, 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) (emphasis added). 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 overpressure 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 the Company's Rimersburg System and the other occurred over a course of four (4) days at the Company'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 overpressure events, nor did any customer property damage occur as a result of those events.

Nevertheless, I&E found that as a consequence of the overpressure incidents at Columbia Gas's 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 the Company'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 customer property damage occurred as a result of the alleged violations. Nonetheless, the

overpressure incidents at Columbia Gas's 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 risk.

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 Gas 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 alleged violations stemming from the incidents at the Rimersburg system and Fayetteville system. Columbia Gas cooperated with safety recommendations from I&E Pipeline Safety inspectors, including, *inter alia*, maintaining weekly or monthly leak surveys, repairing all leaks that were detected in the system, and continuing daily odorant level verifications. In regard to the Fayetteville system, Columbia Gas has replaced 3,748 feet of bare steel, 38,613 feet of coated steel, and 6,597 feet of plastic with 40,500 feet of polyethylene medium pressure plastic ranging in size from 2 to 6 inches. See Columbia Attachment 1. Regarding the Rimersburg system, Columbia Gas removed the Regulator Station R-4046 on Cherry Run Road. In December of 2018, Columbia Gas replaced the overpressurized pipe sections in the Rimersburg system with a medium pressure system, to

ensure safe operation⁶. These replacement activities represent significant facilities improvements that will improve the safety profiles of the two systems.

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 the Company's Rimersburg system served 420 active customers and its Fayetteville system served 966 active customers at the time of the events. While no customers were harmed by the overpressure incidents, such customers were affected by the adequacy and safety of gas service from Columbia Gas's systems and the dangers the overpressure events posed over the course of days and weeks.

The sixth factor to be considered relates to the compliance history of Columbia Gas. 52 Pa. Code § 69.1201(c)(6). An isolated incident from an otherwise compliant company may result in a lower penalty, whereas frequent, recurrent violations by a company may result in a higher penalty. *Id.* When reviewing the compliance history of Columbia Gas, previous overpressure incidents allegedly occurred in 2014. *See Pennsylvania Pub. Util. Comm'n, Bureau of Investigation & Enft v. Columbia Gas of Pennsylvania*, No. M-2014-2306076, 2014 WL 2644843 (June 5, 2014). This compliance history was considered when reaching an amicable civil penalty.

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

⁶ The replacement was necessitated by the age and condition of those facilities, rather than the overpressure event.

from the incidents at the Rimersburg system and Fayetteville system. Concerning the Fayetteville system, Columbia Gas has replaced 3,748 feet of bare steel, 38,613 feet of coated steel, and 6,597 feet of plastic with 40,400 feet of polyethylene medium pressure plastic ranging in size from 2 to 6 inches. Regarding the Rimersburg system, Columbia Gas 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. That replacement was completed to address the age and condition of those facilities and was not a result of the over-pressurized facilities in Rimersburg. 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 were detected in the system, and continuing daily odorant level verifications. In the Company's Fayetteville system, over one-third of the pipeline facilities were replaced.

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, in addition to business practice changes/modifications to be implemented by the Company is substantial and sufficient to deter future overpressure 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 these overpressure incidents, there were no personal injuries or fatalities, and no customer property was damaged. As such, a maximum civil penalty is not applicable here.⁷ 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. 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 injured.)

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 over 45,000 feet of pipe upon request from I&E safety 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

⁷ 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, or a total of \$4,180,044.

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 Commission regulations. *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's overpressure incidents neither resulted in a fire or explosion nor caused personal injury or property damage. As consequences of a serious nature did not ensue, alongside Columbia Gas cooperating with I&E's investigation and the Company's replacement of 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 & Enft 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 Gas and are in the public interest.

In conclusion, I&E fully supports the terms and conditions of the Settlement Agreement, as revised. 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, as revised per the May 20 Order, 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 revised, as being in the public interest and respectfully requests that the Commission approve the Revised Joint Petition for Approval of Settlement in its entirety without modification.

Respectfully submitted,



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Dated: March 17, 2023

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 REVISED JOINT
PETITION FOR APPROVAL OF SETTLEMENT

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Columbia Gas of Pennsylvania, Inc. (“Columbia Gas” or “the Company”), by and through its counsel, hereby respectfully submits its Statement in Support of the Revised 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 Revised Joint Petition for Approval of Settlement (“Joint Petition”) indicates, this matter involves allegations related to overpressure events that occurred in Columbia Gas’s distribution systems in Fayetteville, Pennsylvania and Rimersburg, Pennsylvania.

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.

4. I&E and Columbia Gas (“the Parties”) successfully negotiated a resolution regarding the overpressure events at issue that included Columbia Gas’s agreement to pay a \$535,000 civil penalty and to revise several business practices. The Parties sought Commission approval of that resolution by way of a joint petition filed on June 8, 2021. After considering comments filed by interested parties, in an Order entered May 20, 2022 (“May 20 Order”), the Commission determined that further development of a complete record would be necessary before a decision on appropriate remedies regarding the Rimersburg and Fayetteville events

could be rendered. Accordingly, the Commission referred the matter back to I&E for further development of the record regarding the following issues:

- clarification of exactly what facilities required replacement;
- Columbia Gas's ability to recover/seek recovery of replacement facilities in rate base;
- what damage occurred to customer property due to the overpressurization events.

I&E and Columbia have further developed the record according to the Commission's directive in the Revised Joint Petition, in revised Settlement Agreement language, and in Statements in Support submitted therewith.

II. PARTIES' POSITIONS

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

6. 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 if this settlement is rejected by the Commission or otherwise properly withdrawn by either of the parties.

III. SETTLEMENT AGREEMENT

7. 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 the Settlement Agreement. The purpose of the Settlement Agreement is to resolve these matters without litigation in a manner that minimizes concerns regarding future similar events.

8. Columbia Gas has been cooperative and pro-active in addressing the concerns identified in the Settlement Agreement.

9. Based upon the foregoing, the parties have agreed to the entry of an Order directing as follows in Paragraphs 10 through 17, below:

10. Columbia Gas agrees to pay a total civil penalty of \$535,000¹ to be made within thirty days of the date of the Commission's Final Order approving the Settlement Agreement. Columbia Gas will not seek recovery of any portion of the civil penalty amount 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).

11. 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 has included the issue 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;

12. As part of its Gas Distribution Integrity Management Program ("DIMP"), Columbia Gas has included 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:

¹ 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.*

- a. As part of the process to integrate the valves into the DIMP plan, Columbia Gas is conducting an inventory of all bypass valves in its system in Pennsylvania. The inventory first focused on regulator stations on low pressure stations (completed as of December 31, 2021) and stations with greater than 125 psig inlet pressure (completed as of March 31, 2022). Columbia Gas will complete inventory of the remaining systems within one (1) year 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.
13. 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;²

² 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.

14. In addition to the above-mentioned procedures regarding bypass valves, Columbia Gas 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 Gas 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 Gas should reevaluate the need to continue this process.

15. Columbia Gas has improved 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 has initiated 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;

16. Columbia Gas has added 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;

17. 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 Gas 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?

18. In consideration of the Columbia Gas's 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 17 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 the Settlement Agreement.

19. 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.

20. 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.

21. 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. FURTHER DEVELOPMENT OF THE RECORD PER THE COMMISSION'S ORDER OF MAY 20, 2022

22. In its comments submitted on March 16, 2022, the Pennsylvania Office of Consumer Advocate (“OCA”) observed that there was a discrepancy in the record about how much plant was replaced in the Fayetteville System. (May 20 Order at 19). As observed by OCA, while the original Petition in this case stated that the exceedance of MAOP on the Fayetteville System warranted total replacement of that twenty-five-mile system, I&E’s Statement in Support provided that Columbia Gas replaced only approximately nine miles. In its May 20 Order, the Commission maintained that “the Settlement is not clear on the issue of exactly what facilities required replacement.” (May 20 Order at 21). To address the discrepancy that OCA highlighted, the Parties have revised and clarified the Settlement Agreement language, which now provides that

I&E found that this exceedance of MAOP from an engineering perspective compromised the integrity of the system and warranted an evaluation of the condition of the total system to determine whether and how much of the system warranted replacement. Accordingly, Columbia Gas conducted comprehensive leakage surveys and developed a targeted plan to replace approximately 45,000 feet of compromised facilities, or over one-third of the total system.

The Parties have also provided a detailed listing of the replaced facilities in Columbia Attachment 1 to the Settlement Agreement.

With respect to the Rimersburg system, the Settlement Agreement has been revised to note that the section of that system that was overpressurized during May and June of 2018 was initially repaired with clamps, and then taken out of service and replaced as of December 7, 2018, but that the replacement was not due to the overpressurization event but, rather, due to the age and condition of the facilities. (Settlement Agreement, fn 3).

23. Regarding the issue of Columbia Gas’s ability to recover/seek recovery of replacement facilities in rate base, in its Statement in Support of the Revised Joint Petition for

Approval of Settlement (Appendix B to the Joint Petition), I&E clarifies the portion of its prior Statement in Support of the initial Settlement Petition where I&E referred to Columbia bearing the expense to replace more than 45,000 feet of its Fayetteville System. As explained in that clarification, I&E did not mean to suggest that Columbia Gas had agreed not to seek rate recovery of those costs. While the Settlement Agreement restricts Columbia Gas from seeking rate recovery of any party of the agreed-upon civil penalty – which is a standard provision in such settlements – the Settlement Agreement did not contain any restriction on Columbia’s ability to seek rate relief for the costs associated with facility replacement.

The proper venue for consideration of cost recovery for capital expenditures is within the context of base rate proceedings. Subsequent to the overpressure events at issue that occurred in 2018, Columbia Gas has filed rate cases in 2020 (Docket No. R-2020-3018835), 2021 (Docket No. R-2021-3024296, and 2022 (Docket No. R-2022-3031211). In the 2022 case, which concluded with a final order issued on December 8, 2022, OCA served discovery that sought information from Columbia Gas regarding overpressure events, including the date and location, corrective action taken, expenses and/or capital costs incurred for such events, and whether customer equipment was damaged. The Company’s response to that discovery included the requested information regarding the Rimersburg and Fayetteville 2018 events. No party in that rate case, nor in any of the three rate cases listed above, submitted testimony that challenged Columbia Gas’s recovery of costs associated with either event.

24. Regarding what damage occurred to customer property due to the overpressure events at issue, both Columbia Gas and I&E observed in their Statements in Support of the initial Settlement Agreement that no such damaged occurred. (Columbia Gas original Statement in Support at 11; I&E original Statement in Support at 18). As Columbia Gas further noted in its Statement in Support of the initial Settlement Agreement, regarding Rimersburg, an oil seal at

the regulator station continually relieved pressure during the event. This continual pressure relief functioned as it is designed and prevented injury to persons or property. Regarding Fayetteville, each service line on that system has a service regulator that is rated to at least 125 pounds per square inch gauge (“psig”). While pressure exceeded MAOP during the Fayetteville event, it did not exceed 125 psig. The service regulators protected customers when the pipeline exceeded MAOP but did not exceed 125 psig.

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

25. Columbia Gas 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”).

26. Under the 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).

27. 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).

28. 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 nothing in the record to suggest 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. When Columbia Gas became aware of the overpressure events, the Company apprised the Commission’s Safety Division of these matters immediately.

29. 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, such as personal injury or property damage, Columbia submits that its conduct, as described in the Settlement Agreement, did not result in serious consequences. While the incidents described in the Settlement Agreement involved pressure excursions in excess of MAOP, it is important to note that those excursions did not result in any injury to persons or property. Regarding Rimersburg, there was an oil seal at the regulator station at issue which continually relieved pressure on the Rimersburg system during the event, which functioned as it is designed and prevented injury to persons or property. Regarding Fayetteville, 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.

30. 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.

31. 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. Each of these considerations supports approval of the Settlement Agreement 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. It is noteworthy 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;
- (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;
- (c) the implementation of NiSource Inc.’s Operational Notice 19-05;
- (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;
- (e) the April 2021 implementation of pilot Standard Operating Procedures regarding shut down and start up of District Regulator Stations.

32. Under the fifth standard in the Policy Statement regarding the number of customers affected and the duration of the violation, 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 penalty of \$535,000. The Rimersburg system served 420 active customers and the Fayetteville system served 966 active customers at the time of the events. No customers on these systems lost service due to system failure associated with the events. Rather, temporary service interruptions, lasting only seven hours, impacted twelve customers during the Company's remediation activities in Rimersburg.

33. Under the sixth standard in the Policy Statement regarding compliance history, in 2014 the Commission assessed a civil penalty of \$200,000 as part of an Order that modified a Settlement Agreement between Columbia Gas 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 Gas and I&E in the instant matter reflect that history.

34. Under the seventh standard in the Policy Statement regarding cooperation with the Commission's investigation, Columbia Gas 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.

35. The eighth standard in the Policy Statement considers the amount of civil penalty necessary to deter future violations. Columbia Gas submits that a civil penalty of \$535,000, in conjunction with the operational modifications that the Company has undertaken, will adequately serve to deter future violations.

36. Regarding the ninth standard in the Policy Statement regarding past Commission decisions in similar situations, please see Paragraph 33, above.

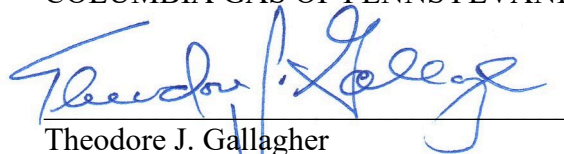
37. Under the tenth standard in the Policy Statement, other relevant factors, Columbia Gas submits that that it is in the public interest to settle this matter so as to avoid the expense of litigation. Moreover, the Settlement is in the public interest because it will result in public benefits that will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

38. 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, as revised and clarified in accordance with the Commission's May 20 Order, 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 substantial 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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Date: March 17, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility :
Commission, Bureau of Investigation :
and Enforcement's Investigation of : Docket No. M-2021-3005572
Columbia Gas of Pennsylvania, Inc.'s :
Overpressure Incidents that occurred in :
Rimersburg, PA and Fayetteville, PA :

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 by Electronic Mail

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Dated: March 17, 2023