



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

July 25, 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 v.
Columbia Gas of Pennsylvania, Inc.
Docket No. C-2023-3040925
I&E Prehearing Conference Memorandum

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Bureau of Investigation and Enforcement's ("I&E") **Prehearing Conference Memorandum** in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink that reads 'Kayla L. Rost'.

Kayla L. Rost
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

KLR/ac
Enclosures

cc: Per Certificate of Service
Michael L. Swindler, Deputy Chief Prosecutor (*via email-* mwindler@pa.gov)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2023-3040925
	:	
Columbia Gas of Pennsylvania, Inc.	:	

**PREHEARING CONFERENCE MEMORANDUM
OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:

The Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”) files this Prehearing Conference Memorandum in accordance with Section 5.222(d)(1) of the Commission’s regulations, 52 Pa. Code § 5.222(d)(1), in advance of the prehearing conference scheduled for July 26, 2023.

I. HISTORY OF THE PROCEEDING

On May 25, 2023, I&E filed a Formal Complaint, Docket No. C-2023-3040925 against Columbia Gas of Pennsylvania, Inc. (“Columbia”) in connection with a damaged, unmarked gas line owned and operated by Columbia which was struck during excavation activities by Columbia’s third-party excavator, Northern Pipeline Construction, on or about May 28, 2020 in South Strabane Township, Washington County. I&E alleges that Columbia committed violations of the Underground Utility Line Protection Law (“PA One Call Law”), Act of October 30, 2017, P.L.806, No. 50, 73 P.S. §§ 182.8(c)-(d) and 182.10, when it failed to employ sufficient levels of subsurface utility engineering, or SUE, during the excavation activity, and seeks the imposition

of an administrative penalty of Five Thousand Dollars (\$5,000.00) and a directive that Columbia perform three (3) corrective measures.

By letter dated May 26, 2023, the Commission served the Formal Complaint to Columbia.

On June 15, 2023, Columbia filed its Answer to the Formal Complaint. In its Answer, Columbia denied that it failed to employ the proper level of SUE and requested that the Commission enter a judgment in favor of Columbia.

On June 20, 2023, a Call-in Telephonic Prehearing Conference Notice was issued, scheduling a telephonic conference for July 26, 2023 before Administrative Law Judge Mary D. Long. On June 21, 2023, ALJ Long issued a Prehearing Conference Order confirming the telephonic prehearing conference and instructing the Parties to submit a prehearing conference memorandum no later than 9:00 a.m. on July 25, 2023.

On July 11, 2023, a Rescheduled Initial Telephonic Prehearing Conference Notice was issued, changing the time of the prehearing conference from 10:00 a.m. to 2:00 p.m.

This prehearing conference memorandum is being submitted in accordance with the June 21, 2023 Prehearing Conference Order.

II. I&E PREHEARING CONFERENCE MEMORANDUM

A. Service

All service on, and communication to, I&E in this proceeding should be addressed to:

Kayla L. Rost
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-1888
karost@pa.gov

B. Statement Regarding Settlement

I&E is open and willing to discuss settlement of this matter. Currently, I&E and Columbia have begun initial settlement discussions.

C. Plan and Schedule of Discovery

I&E proposes that discovery be conducted consistent with the Commission's regulation at 52 Pa. Code §§ 5.321, *et seq.*

D. Discovery Orders

I&E does not propose any modifications to the Commission's regulations pertaining to discovery at 52 Pa. Code §§ 5.321, *et seq.*

E. Proposed Litigation Schedule

In light of the Parties' interest in discussing settlement, I&E and Columbia request Your Honor to hold the pending matter in abeyance for sixty (60) days while the Parties engage in settlement discussions. The Parties agree to provide Your Honor with a status update on the progress of settlement discussions at the conclusion of the 60-day period.

F. Names and Addresses of Witness(es) to be Presented

Melissa McFeaters, P.E.
Fixed Utility Valuation Engineer II
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

I&E reserves the right to modify the identified witness and/or present additional witnesses as it deems necessary based on the issues identified by the parties.

1. Issues to be Addressed

a. Whether Columbia failed to utilize sufficient quality levels of

subsurface utility engineering to determine the existence and position of underground facilities when designing the complex project.

- b. Whether Columbia released a complex project to bid or construction before final design was completed.

2. Statement of Evidence to be Presented

Ms. McFeaters will provide testimony relating to the sufficient levels of SUE required for Columbia's complex project in light of the circumstances/situation presented at the excavation location. The testimony will include Pipeline Safety's review of Columbia's complex project and excavation activity, in addition to the remedial measures sought in the Formal Complaint.

Ms. McFeaters may testify to additional matters based upon the issues identified by the parties.

Respectfully submitted,



Kayla L. Rost
Prosecutor
PA Attorney ID No. 322768

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
Phone: (717) 787-1888
Email: karost@pa.gov

Dated: July 25, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2023-3040925
	:	
Columbia Gas of Pennsylvania, Inc.	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Prehearing Conference Memorandum** dated July 25, 2023, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by Electronic Mail Only

Honorable Mary D. Long
Administrative Law Judge
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120
malong@pa.gov

Candis A. Tunilo, Esquire
800 North Third Street, Suite 204
Harrisburg, PA 17102
ctunilo@nisource.com
*Counsel for
Columbia Gas of Pennsylvania, Inc.*

Theodore J. Gallagher, Esquire
Assistant General Counsel
NiSource Corporate Services Company
121 Champion Way, Suite 100
Canonsburg, PA 15317
tjgallagher@nisource.com
*Counsel for
Columbia Gas of Pennsylvania, Inc.*



Kayla L. Rost
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov