

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held December 5, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

M-2024-3038111

v.

Columbia Gas of Pennsylvania, Inc.

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a proposed Joint Petition for Approval of Settlement (Settlement, Settlement Agreement, or Petition) filed on October 11, 2024, by the Commission's Bureau of Investigation and Enforcement (I&E) and Columbia Gas of Pennsylvania, Inc. (Columbia Gas or the Company) (collectively, the Parties), with respect to an informal investigation conducted by I&E. Both Parties filed Statements in Support of the Settlement. The Parties submit that the proposed Settlement is in the public interest and is consistent with the Commission's Policy Statement at 52 Pa. Code § 69.1201, *Factors and Standards for Evaluating Litigated and Settled Proceedings*

Involving Violations of the Public Utility Code and Commission Regulations. (Policy Statement). Petition at 10.

Before issuing a final decision on the merits of the proposed Settlement, and consistent with the requirement of 52 Pa. Code § 3.113(b)(3), we shall publish the Settlement in the *Pennsylvania Bulletin* and provide an opportunity for interested parties to file comments regarding the proposed Settlement.¹

History of the Proceeding

This matter concerns a welding burn-through² and in-service repair at Columbia Gas's regulator station #4539 in Rochester, Beaver County, Pennsylvania (Rochester Station) that was discovered by I&E engineering staff on or about October 14, 2021. During I&E's inspection of the Rochester Station, evidence of a welding burn-through was observed on one of the welds. I&E learned that Columbia Gas's contractor, Infrasource, experienced the burn-through while performing in-service welding at the Rochester Station. The Infrasource welder attempted to repair the burn-through while the Rochester Station was in service and operating. In addition, the burn-through repair was inspected by the same Infrasource welder and remained in service for approximately 4 months, during which time there were no explosions, property damage, or injuries. Petition at 4.

Upon discovering that the regulator was still in service after the burn-through and in-service repair, I&E requested that Columbia Gas perform daily leak testing around and on the Rochester Station. The leak surveys started on

¹ As discussed, *infra*, because of the nature of the incident, as described in the Settlement, it is appropriate to publish the Settlement in the *Pennsylvania Bulletin*.

² A burn-through is a portion of the root bead where excessive penetration has caused the weld puddle to be blown into the pipe, leaving an open hole or cavity.

October 16, 2021, and ended on January 13, 2022, when Columbia Gas installed a temporary regulator at that location. Columbia Gas took Regulator Station #4539 out of service in January 2022, so that the proper repairs could be made. Petition at 5.

On April 5, 2022, I&E returned to perform an inspection on the permanent repairs and to review the daily leak survey records. I&E found that the welder who performed the repair was qualified and the piping and fittings installed for the repair were pressure tested prior to installation and soap tested after installation. Petition at 5.

Columbia Gas's Welding Manual was effective at the time of the welding burn-through and in-service repair. The Welding Manual provides that cracks, arc burns, and burn-throughs are not permitted in the visual examination of butt and fillet welds. Columbia Gas's Welding Manual provides that defective welds shall either be repaired or cut out and specifically identifies how "cracks" and "arc burns" must be repaired or cut out, but the Welding Manual provides no guidance how to repair a burn-through. Petition at 5.

The Welding Manual details how to perform in-service welds; however, it does not specify whether the repair of a burn-through can be undertaken while the pipeline is in-service. Finally, Columbia Gas's Welding Manual provides that all welds shall be visually inspected to ensure that the weld is performed in accordance with approved procedures and standards. Petition at 5.

Columbia Gas's Welding Manual directs that personnel performing the visual inspection be trained in specific areas, be experienced in welding construction, and pass the Operator Qualification exam. The Welding Manual provides that the welder performing the weld may also be the person performing the visual inspection of the weld. Petition at 6.

I&E conducted a thorough investigation and concluded that Columbia Gas’s contractor performed an in-service repair of a welding burn-through and that Columbia Gas failed to have procedures or processes in place for making an in-service repair of a welding burn-through. Petition at 6.

Thereafter, the Parties entered negotiations and agreed to resolve the matter in accordance with the Commission’s policy to promote settlements at 52 Pa. Code § 5.231. Petition at 6. As previously indicated, the Parties filed the instant Settlement on October 11, 2024.

If this matter had been fully litigated, I&E would have proffered evidence and legal arguments to demonstrate that Columbia Gas violated certain provisions of the Public Utility Code (Code),³ Commission regulations,⁴ and/or certain provisions of the Code of Federal Regulations (CFR)⁵ in that:

- a. Columbia Gas failed to have welding procedures in place that identify how to repair a burn-through and whether that repair can be performed when the pipeline is in-service. If proven, this is a violation of 49 CFR § 192.13(c) (General Requirements), 49 CFR § 192.225(b) (Welding Procedures), and 49 CFR § 192.245(c) (Repair or Removal of Defects); and
- b. Columbia Gas’s contractor, Infrasource, inspected the burn-through weld, on which an unapproved repair was attempted without a procedure and outside the parameters of any accepted procedure, and which Columbia Gas permitted to remain in service for approximately 4-months. If proven, this is a violation of 49 CFR § 192.241(a) (Inspection and Test of Welds), 49 CFR § 192.303 (Compliance with

³ 66 Pa.C.S. §§ 101 *et seq.*

⁴ 52 Pa. Code § 59.33(a).

⁵ 49 CFR §§ 192.13(a)(1) *et seq.*

Specifications or Standards), 49 CFR § 192.305 (Inspection), 49 CFR § 192.13(a)(1) (General Requirements), and 52 Pa. Code § 59.33(a) (Safety).

Petition at 5-6.

Had this matter been fully litigated, Columbia Gas would have contended that it did not violate provisions of the Code, Commission regulations, and/or the CFR.

Petition at 7.

Terms and Conditions of the Settlement

The Parties submit that the Settlement is a complete settlement related to I&E's informal investigation and represents a compromise by both I&E and Columbia Gas of their competing positions. The Parties further state that the Settlement constitutes a negotiated resolution of the issues addressed therein. The Parties urge the Commission to approve the Settlement in its entirety and without modification, as being in the public interest and consistent with the Commission's Policy Statement. Petition at 13.

The Settlement consists of the Joint Petition for Approval of Settlement containing the terms and conditions of the Settlement, Proposed Ordering Paragraphs (Appendix A to the Petition), and the respective Statements in Support of the Settlement of I&E (Appendix B to the Petition) and Columbia Gas (Appendix C to the Petition), filed on October 11, 2024.

The essential terms of the Settlement are set forth in Paragraphs 31-34 of the Petition. Petition at 8-10. These terms and conditions are excerpted in relevant part, as follows:

31. 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 without modification will create the following rights and obligations:

A. Civil Penalty:

Columbia Gas will pay a civil penalty in the amount of Nine Thousand Dollars (\$9,000.00) pursuant to 66 Pa.C.S. § 3301(c). Said payment will be made within thirty (30) days of the entry date of the Commission's Final Order approving the Settlement Agreement and will be made by certified check or money order payable to the "Commonwealth of Pennsylvania." The docket number of this proceeding will be indicated with the certified check or money order and the payment will be sent to:

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

The civil penalty will not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f). Columbia Gas will not seek recovery of any portion of any agreed upon total civil penalty amount in any future ratemaking proceeding.

B. Procedures Related to Welding Burn-Throughs and In-Service Repairs:

Columbia Gas shall develop procedures and directions to either cut out and/or repair welds with a burn-through on in-service pipelines and review the procedure with all employee and contract welders welding on Columbia Gas facilities.

C. Procedures Related to Revocation of Welder Qualifications:

Columbia Gas shall amend its Welding Manual, to reference the Columbia Operator Qualification Plan Section E: Reasonable Cause to Verify Qualification, and “Review of Individuals (Field Failures)” as they pertain to welder performance. Columbia Gas will also ensure that employees and contractors are knowledgeable about this procedure.

D. Retraining, Requalification, and Inspection of Welds:

The welder who performed the burn-through weld at Regulator Station #4539 has been retrained and requalified by Columbia Gas. Within 30 days of the issuance of a final order approving this settlement, Columbia Gas will provide I&E Pipeline Safety a list of all LP project jobs on which this welder completed welds, from which I&E Pipeline Safety will select a sample size and location where Columbia Gas will conduct visual, and if necessary, a non- destructive review of the welds.

E. Advisory Bulletin and Tailgate Updates:

Columbia Gas will issue an advisory bulletin and host tailgate updates to all appropriate

company and contractor personnel regarding burn-through and in-service welding.

F. Quality Assurance/Quality Control Practice:

Columbia Gas will review and amend, as needed, its existing Quality Assurance/Quality Control practice for welds completed by second party contractors. The results of Columbia Gas's review will be made available to I&E Pipeline Safety.

G. Causal Analysis for Welding Issues:

Columbia Gas will conduct a causal analysis when a pipeline burn-through occurs on an in-service pipeline. Columbia Gas will also conduct a causal analysis for other weld related issues, as appropriate.

H. In-Service Welding Procedures:

Columbia Gas will review and amend, as needed, in-service welding procedures in its Welding Manual and related welder training.

32. Upon Commission approval of the Settlement in its entirety without modification, I&E will not file any complaints or initiate other action against Columbia Gas at the Commission with respect to the allegations that were the subject of I&E's instant investigation.

33. Following the performance of the non-monetary, remedial measures referenced above, Columbia Gas will file with the Commission a verification acknowledging that the non-monetary, remedial measures have been met or complied with, pursuant to 52 Pa. Code § 5.591.

34. I&E and Columbia Gas jointly acknowledge that approval of this Settlement Agreement 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 is in the public interest because it effectively addresses I&E's allegations and avoids the time and expense of further litigation, which entails hearings, travel for out-of-state witnesses, and the preparation and filing of briefs, exceptions, and reply exceptions, as well as possible appeals. Attached as **Appendices B** and **C** are Statements in Support submitted by I&E and Columbia Gas, respectively, setting forth the basis upon which the Parties believe the Settlement Agreement is in the public interest.

Petition at 8-10.

The proposed Settlement is conditioned on the Commission's approval, without modification, of any of its terms or conditions. If the Commission does not approve the proposed Settlement or makes any change or modification to the proposed Settlement, either Party may elect to withdraw from the Settlement. Petition at 11.

The Parties agree that the underlying allegations were not the subject of any hearing and that there has been no order, findings of fact, or conclusions of law rendered in this proceeding. Further, by entering into this Settlement Agreement, the Respondent has made no concession or admission of fact or law and may dispute all issues of fact and law for all purposes in any other proceeding. This Settlement may not be used by any other person or entity as a concession or admission of fact or law. The Parties acknowledge that this Settlement Agreement reflects a compromise of competing positions, does not necessarily reflect any party's position with respect to any issues raised in this proceeding, and does not, in any way, constitute a finding or admission of guilt. Petition at 12.

This Settlement represents a complete settlement of I&E's informal investigation against Columbia Gas' alleged violations of state and federal regulations.

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 state or federal law. Petition at 13-14.

Discussion

Pursuant to our Regulations at 52 Pa. Code § 5.231, it is the Commission's policy to promote settlements. The Commission must, however, review proposed settlements to determine whether the terms are in the public interest. *Pa. PUC v. Philadelphia Gas Works*, Docket No. M-00031768 (Order entered January 7, 2004).

In reviewing settlements that resolve informal investigations, the Commission will provide other potentially affected parties with the opportunity to file comments regarding a proposed settlement prior to issuing a decision. The Commission's Regulations at 52 Pa. Code § 3.113(b) provide as follows:

§ 3.113. Resolution of informal investigations.

* * *

(b) Under 65 Pa. C.S. Chapter 7 (relating to Sunshine Act), the Commission's official actions resolving informal investigations will be as follows:

* * *

(3) When the utility, or other person subject to the Commission's jurisdiction, has committed to undertake action to address or remedy a violation or potential violation of the act or to resolve another perceived deficiency at the utility, in the form of a settlement with the Commission staff or other resolution of the matter, the Commission's consideration of the settlement or approval of the utility's action will occur at public meeting. Except

for staff reports and other documents covered by a specific legal privilege, documents relied upon by the Commission in reaching its determination shall be made part of the public record. **Before the Commission makes a final decision to adopt the settlement or to approve the utility's action, the Commission will provide other potentially affected persons with the opportunity to submit exceptions thereon or to take other action provided for under law.**

52 Pa. Code § 3.113(b) (emphasis added). *See also Pa. PUC, Bureau of Investigation and Enforcement v. PPL Electric Utilities Corporation*, Docket No. M-2012-2264635 (Order entered September 13, 2012); *Pa. PUC, Bureau of Investigation and Enforcement v. Liberty Power Holdings, LLC*, Docket No. M-2019-2568471 (Order entered August 8, 2019).

Conclusion

Before issuing a decision on the merits of the proposed Settlement, and consistent with the requirement of 52 Pa. Code § 3.113(b)(3), and for the reason(s) stated above, it is appropriate to provide interested parties an opportunity to file comments on the proposed Settlement. Therefore, we will: (1) publish this Opinion and Order and a copy of the proposed Settlement with Appendices, which include the Parties' Proposed Ordering Paragraphs and Statements in Support, attached hereto, in the *Pennsylvania Bulletin*; and (2) provide an opportunity for interested parties to file comments regarding the proposed Settlement within twenty-five days of the date of publication in the *Pennsylvania Bulletin*; **THEREFORE,**

IT IS ORDERED:

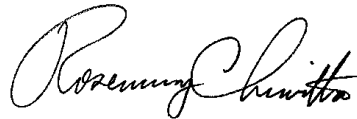
1. That the Secretary's Bureau shall duly certify this Opinion and Order along with the attached Joint Petition for Approval of Settlement (including Appendices) and the Statements in Support thereof, at Docket No. M-2024-3038111, and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

2. That within twenty-five (25) days of the date that this Opinion and Order and the attached Joint Petition for Approval of Settlement (including Appendices) and the Statements in Support thereof are published in the *Pennsylvania Bulletin*, interested parties may file comments concerning the proposed Settlement.

3. That a copy of this Opinion and Order, together with the attached Joint Petition for Approval of Settlement (including Appendices) and the Statements in Support thereof, at Docket No. M-2024-3038111, shall be served on the Office of Consumer Advocate and the Office of Small Business Advocate.

4. That, subsequent to the Commission's review of any comments filed in this proceeding, at Docket No. M-2024-3038111, a final Opinion and Order will be issued by the Commission.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: December 5, 2024

ORDER ENTERED: December 13, 2024

ATTACHMENT



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

October 11, 2024

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 welding burn-through on a regulator station in Rochester, Beaver County, Pennsylvania
Docket No. M-2024-3038111
Joint Petition for Approval of Settlement

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Joint Petition for Approval of Settlement in the above-referenced proceeding as well as the following Appendices: Appendix A - Joint Proposed Ordering Paragraphs; Appendix B –the Statement in Support of the Bureau of Investigation and Enforcement; and Appendix C – the 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,

A handwritten signature in blue ink, appearing to read 'Colby B. Widdowson', is written over a light blue circular stamp.

Colby B. Widdowson
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 326185
(717) 787-2139
cwiddowson@pa.gov

CBW/ ac
Enclosures

cc: Michael L. Swindler, Deputy Chief Prosecutor, I&E (via email – mwindler@pa.gov)
As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :
Bureau of Investigation and :
Enforcement’s Investigation of Columbia : Docket No. M-2024-3038111
Gas of Pennsylvania, Inc.’s welding burn- :
through on a regulator station in :
Rochester, Beaver County, Pennsylvania :

JOINT PETITION FOR APPROVAL OF SETTLEMENT

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code §§ 5.41 and 5.232, the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E” or “Complainant”) and Columbia Gas of Pennsylvania, Inc. (“Columbia Gas” or “Company”) (hereinafter referred to collectively as the “Parties” or “Joint Petitioners”) hereby submit this Joint Petition for Approval of Settlement (“Settlement” or “Settlement Agreement”) to resolve all issues related to a welding burn-through¹ on a regulator station in Rochester, Beaver County, Pennsylvania (“Incident”). I&E and Columbia Gas respectfully request that the Commission approve the Joint Petition, without modification, for the compelling public interest reasons set forth, *infra*. Also attached are Proposed Ordering Paragraphs (Appendix A) and Statements in Support of the Settlement expressing the individual views of I&E (Appendix B) and Columbia Gas (Appendix C), respectively.

¹ A burn-through is as a portion of the root bead where excessive penetration has caused the weld puddle to be blown into the pipe, leaving an open hole or cavity.

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, Harrisburg, Pennsylvania 17120 and Columbia Gas,⁷ a natural gas distribution company ("NGDC"), 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 66 Pa.C.S. §§ 101, *et seq.*

3. I&E is the entity 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. 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.

5. Pursuant to Section 59.33(b) of the Commission's regulations, 52 Pa. Code § 59.33(b), I&E's Pipeline Safety Division ("Pipeline Safety") 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. The Federal pipeline

² Columbia Gas of Pennsylvania, Inc. is a NiSource Company.

safety laws and regulations prescribe the minimum safety standards for all natural gas and hazardous liquid public utilities in the Commonwealth.

6. 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.

7. 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 applicable adjustment made by the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration ("PHMSA") occurred on December 28, 2023 and revised the maximum civil penalty to Two Hundred Sixty-Six Thousand, Fifteen Dollars (\$266,015.00) for each violation and for each day the violation continues, with a maximum penalty not to exceed Two Million, Six Hundred Sixty Thousand, One Hundred Thirty-Five Dollars (\$2,660,135.00) for a related series of violations. 88 Fed. Reg. 89560 (Dec. 28, 2023).

8. Columbia Gas is a “public utility” as that term is defined at 66 Pa.C.S. § 102 as it is engaged in providing public utility service as an NGDC-in the Commonwealth of Pennsylvania to the public for compensation.

9. Columbia Gas, as an NGDC, is subject to the power and authority of the 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.

10. Pursuant to the provisions of the applicable Commonwealth statutes and regulations, the Commission has jurisdiction over this subject matter and the actions of Columbia Gas in its capacity as an NGDC.

II. BACKGROUND

11. On or about October 14, 2021, engineers with I&E’s Pipeline Safety Division (“Pipeline Safety”) conducted an inspection of Regulator Station #4539, located in Rochester, Beaver County, Pennsylvania.

12. During the inspection, Pipeline Safety observed evidence of a welding burn-through on one of the regulator station welds.

13. Columbia Gas’s contractor, Infrasource, performed alterations on Regulator Station #4539, which remained in-service while the work was performed.

14. While performing the in-service welding on the regulator station, a burn-through occurred. The burn-through required repair and the Infrasource welder attempted to repair the burn-through while the regulator station was in service and operating.

15. The burn-through repair was inspected by the Infrasource welder and remained in service for approximately 4-months. While the welding burn-through and in-service repair remained in service, there were no explosions, property damage, or injuries.

16. Upon discovering that the regulator was still in service after the burn-through and in-service repair, Pipeline Safety requested daily leak surveys around and on the regulator station. The daily leak surveys started on October 16th, 2021, and ended on January 13th, 2022, when Columbia Gas installed a temporary regulator station at that location.

17. In January of 2022, Regulator Station #4539 was taken out of service so that the proper repairs could be made. On April 5th, 2022, I&E-Safety returned to Regulator Station #4539 to perform an inspection on the permanent repairs and review the daily leak survey records. The welder who performed the repair was qualified. The piping and fittings installed for the repair were pressure tested prior to installation, then soap tested, once they were installed.

18. Columbia Gas's Welding Manual was effective at the time of the welding burn-through and in-service repair.

19. Columbia Gas's Welding Manual provides that cracks, arc burns, and burn-throughs are not permitted in the visual examination of butt and fillet welds.

20. Columbia Gas's Welding Manual provides that defective welds shall either be repaired or cut out and specifically identifies how "cracks" and "arc burns" must be repaired or cut out but provides no guidance how to repair a burn-through.

21. The Welding Manual details how to perform in-service welds; however, it does not specify whether the repair of a burn-through can be undertaken while the pipeline is in-service.

22. Columbia Gas's Welding Manual provides that all welds shall be visually inspected to ensure that the weld is performed in accordance with approved procedures and standards.

23. Columbia Gas's Welding Manual directs that personnel performing the visual inspection be trained in specific areas, be experienced in welding construction, and pass the Operator Qualification exam, and allows that the welder performing the weld may also be the person performing the visual inspection of the weld.

24. Pipeline Safety conducted a thorough investigation and concluded that Columbia Gas's contractor performed an in-service repair of a welding burn-through and Columbia Gas failed to have procedures or processes in place for making an in-service repair of a welding burn-through.

III. ALLEGED VIOLATIONS

25. Had this matter been fully litigated rather than resolved through this Settlement, I&E would have proffered evidence and legal argument that Columbia Gas violated certain provisions of the Public Utility Code, Commission regulations, and/or Code of Federal Regulations in that:

- a. Columbia Gas failed to have welding procedures in place that identify how to repair a burn-through and whether that repair can be performed when the pipeline is in-service. If proven, this is a violation of 49 CFR § 192.13(c) (General Requirements), 49 CFR § 192.225(b) (Welding Procedures), and 49 CFR § 192.245(c) (Repair or Removal of Defects); and
- b. Columbia Gas's contractor, Infrasource, inspected the burn-through weld, on which an unapproved repair was attempted without a procedure and outside the parameters of any accepted procedure, and which Columbia Gas permitted to remain in service for approximately 4-months. If proven, this is a violation of 49 CFR § 192.241(a) (Inspection and Test of Welds), 49 CFR § 192.303 (Compliance with Specifications or Standards), 49 CFR § 192.305 (Inspection), 49 CFR § 192.13(a)(1) (General Requirements), and 52 Pa. Code § 59.33(a) (Safety).

26. Had this matter been fully litigated rather than resolved through this Settlement, Columbia Gas would have contended that it did not violate provisions of the Public Utility Code, Commission regulations, and/or Code of Federal Regulations.

IV. SETTLEMENT TERMS

27. Pursuant to the Commission's policy of encouraging settlements that are reasonable and in the public interest, as set forth at 52 Pa. Code § 5.231(a), I&E and Columbia Gas held a series of discussions and meetings that culminated in this Settlement. I&E and Columbia Gas desire to: (i) terminate I&E's informal investigation; and (ii) settle this matter completely without litigation. The Parties recognize that this is a disputed claim and given the inherent unpredictability of the outcome of a contested proceeding, the Parties further recognize the significant and more immediate benefits of amicably resolving the disputed issues through settlement as opposed to time-consuming and expensive litigation.

28. This matter is worthy of resolution without litigation as the remedial measures agreed to by the Company in this Settlement Agreement include valuable safety enhancements that go above and beyond what the Company could be required to implement via strict adherence to the provisions of the relevant state and federal regulations.

29. The Parties recognize that their positions and claims are disputed and further recognize the significant and more immediate benefits of amicably resolving the disputed issues through settlement as opposed to time-consuming and expensive litigation.

30. The terms and conditions of the Settlement Agreement, for which the Parties seek Commission approval, are set forth below.

31. 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 without modification will create the following rights and obligations:

A. Civil Penalty:

Columbia Gas will pay a civil penalty in the amount of Nine Thousand Dollars (\$9,000.00) pursuant to 66 Pa.C.S. § 3301(c). Said payment will be made within thirty (30) days of the entry date of the Commission’s Final Order approving the Settlement Agreement and will be made by certified check or money order payable to the “Commonwealth of Pennsylvania.” The docket number of this proceeding will be indicated with the certified check or money order and the payment will be sent to:

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

The civil penalty will not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f). Columbia Gas will not seek recovery of any portion of any agreed upon total civil penalty amount in any future ratemaking proceeding.

B. Procedures Related to Welding Burn-Throughs and In-Service Repairs:

Columbia Gas shall develop procedures and directions to either cut out and/or repair welds with a burn-through on in-service pipelines and review the procedure with all employee and contract welders welding on Columbia Gas facilities.

C. Procedures Related to Revocation of Welder Qualifications:

Columbia Gas shall amend its Welding Manual, to reference the Columbia Operator Qualification Plan Section E: Reasonable Cause to Verify Qualification, and “Review of Individuals (Field Failures)” as they pertain to welder performance. Columbia Gas will also ensure that employees and contractors are knowledgeable about this procedure.

D. Retraining, Requalification, and Inspection of Welds:

The welder who performed the burn-through weld at Regulator Station #4539 has been retrained and requalified by Columbia Gas. Within 30 days of the issuance of a final order approving this settlement, Columbia Gas will provide I&E Pipeline Safety a list of all LP project jobs on which this welder completed welds, from which I&E Pipeline Safety will select a sample size and location where Columbia Gas will conduct visual, and if necessary, a non-destructive review of the welds.

E. Advisory Bulletin and Tailgate Updates:

Columbia Gas will issue an advisory bulletin and host tailgate updates to all appropriate company and contractor personnel regarding burn-through and in-service welding.

F. Quality Assurance/Quality Control Practice:

Columbia Gas will review and amend, as needed, its existing Quality Assurance/Quality Control practice for welds completed by second party contractors. The results of Columbia Gas’s review will be made available to I&E Pipeline Safety.

G. Causal Analysis for Welding Issues:

Columbia Gas will conduct a causal analysis when a pipeline burn-through occurs on an in-service pipeline. Columbia Gas will also conduct a causal analysis for other weld related issues, as appropriate.

H. In-Service Welding Procedures:

Columbia Gas will review and amend, as needed, in-service welding procedures in its Welding Manual and related welder training.

32. Upon Commission approval of the Settlement in its entirety without modification, I&E will not file any complaints or initiate other action against Columbia Gas at the Commission with respect to the allegations that were the subject of I&E's instant investigation.

33. Following the performance of the non-monetary, remedial measures referenced above, Columbia Gas will file with the Commission a verification acknowledging that the non-monetary, remedial measures have been met or complied with, pursuant to 52 Pa. Code § 5.591.

34. I&E and Columbia Gas jointly acknowledge that approval of this Settlement Agreement 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 is in the public interest because it effectively addresses I&E's allegations and avoids the time and expense of further litigation, which entails hearings, travel for out-of-state witnesses, and the preparation and filing of briefs, exceptions, and reply exceptions, as well as possible appeals. Attached as **Appendices B** and **C** are Statements in Support submitted by I&E and Columbia Gas, respectively, setting forth the basis upon which the Parties believe the Settlement Agreement is in the public interest.

V. CONDITIONS OF SETTLEMENT

35. This document represents the Settlement Agreement in its entirety and constitutes a negotiated resolution solely of the above-referenced investigation. No changes to obligations set forth herein may be made unless they are in writing and are

expressly accepted by the parties involved. This Settlement Agreement shall be construed and interpreted under Pennsylvania law, without regard to its conflict of laws provisions.

36. The Parties agree that this Settlement may be executed in one or more counterparts, each of which will be deemed an original, and all of which taken together constitute one and the same agreement that is binding upon the Parties as if they executed a single petition.

37. In order to effectuate this Joint Petition, the undersigned parties request that the Commission issue a Final Order approving the Joint Petition without modification.

38. The Settlement is conditioned upon the Commission's approval of the terms and conditions contained in this Joint Petition for Approval of Settlement without modification. If the Commission modifies this Settlement Agreement, any party may elect to withdraw from this Settlement Agreement and may proceed with litigation or take such other action as deemed appropriate and, in such event, this Settlement Agreement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission, and served upon all parties within twenty (20) business days after entry of an Order modifying the Settlement.

39. The consequence of any party withdrawing from this Joint Petition as set forth above is that all issues associated with the requested relief presented in the proceeding may be fully litigated by the filing of a Formal Complaint or such other action may be taken as deemed appropriate 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.

40. The Parties agree that the underlying allegations were not the subject of any hearing and that there has been no Order, findings of fact, or conclusions of law rendered in this Complaint proceeding. It is further understood that, by entering into this Settlement Agreement, Columbia Gas has made no concession or admission of fact or law and may dispute all issues of fact and law for all purposes in any other proceeding, including but not limited to any civil proceedings, that may arise as a result of the circumstances described in this Joint Settlement Petition, nor may this settlement be used by any other person or entity as a concession or admission of fact or law.

41. The Parties acknowledge that this Settlement Agreement reflects a compromise of competing positions, does not necessarily reflect any party's position with respect to any issues raised in this proceeding, and does not in any way constitute a finding or an admission of guilt.

42. This Settlement Agreement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable and in the public interest. This Settlement is presented without prejudice to any position that any of the Parties may have advanced and without prejudice to the position any of the Parties may advance in the future on the merits of the issues in any other proceedings, except to the extent necessary to effectuate or enforce the terms and conditions of this Settlement Agreement. This Settlement does not preclude the Parties from taking other positions in any other proceeding but is conclusive in this proceeding and may not be

reasserted in any other proceeding or forum except for the limited purpose of enforcing the Settlement by a Party.

43. Columbia Gas does not admit to any violations of state or federal law with respect to the Incident.

44. The Parties agree that upon the filing of the Settlement, the three year requirement to bring a prosecution for this matter, found at 66 Pa.C.S. § 3314, shall be tolled until such time the Commission issues an Order approving or rejecting the Settlement Agreement or a Party files its election to withdraw from the Settlement Agreement, whichever occurs later in time.

45. In the event the Commission rejects the Settlement or approves the Settlement with modifications or conditions, Columbia Gas may raise affirmative defenses in any formal proceeding brought by I&E in connection with the Incident, including but not limited to, defenses based on state or federal statutes of limitation.

46. I&E and Columbia Gas shall make good faith efforts to obtain approval of the Joint Petition by the Commission including, but not limited to, submitting Statements in Support of the Joint Petition. Both Parties' Statements in Support of the Joint Petition shall support the position that the agreed-to civil penalty to be paid by Columbia Gas is adequate and consistent with the Commission's Policy Statement on settlement of investigations and the Rosi Standards for civil penalties and thus in the public interest.

47. I&E and Columbia Gas jointly acknowledge that approval of this Settlement Agreement 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 Joint Petition for Approval of Settlement.

48. The Joint Petition 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.

49. Since the Parties agree to the terms of the Joint Petition, 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.

50. This settlement consists of the entire agreement between I&E and Columbia Gas regarding the matters addressed herein. Moreover, this Settlement Agreement represents a complete settlement of I&E's informal investigation of the alleged violations of state and federal regulations regarding the Incident, as discussed, *supra*.

51. The terms and conditions of this Settlement Agreement represent 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 issue an Order approving the terms of this Settlement Agreement in their entirety, without modification, as being in the public interest.


[Signature Page to Follow]

Respectfully Submitted,

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

Columbia Gas of Pennsylvania, Inc.

By: 
Colby B. Widdowson
Prosecutor
PA Attorney ID No. 326185
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*Attorney for Columbia Gas of
Pennsylvania, Inc.*

Date:

Date: October 11, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :
Bureau of Investigation and :
Enforcement’s Investigation of Columbia : Docket No. M-2024-3038111
Gas of Pennsylvania, Inc.’s welding burn- :
through on a regulator station in :
Rochester, Beaver County, Pennsylvania :

JOINT PROPOSED ORDERING PARAGRAPHS

1. That the Joint Settlement Petition filed on October 11, 2024 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. will pay a civil penalty of Nine Thousand Dollars (\$9,000.00). Said payment will be made by certified check or money order payable to “Commonwealth of Pennsylvania” and will be sent to:

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

3. That the civil penalty will not be tax deductible or passed through as an additional charge to Columbia Gas of Pennsylvania, Inc.’s customers in Pennsylvania.

4. That upon fulfillment of the non-monetary, remedial measures set forth in Paragraph 31 of the Joint Petition for Settlement, Columbia Gas of Pennsylvania, Inc.

will file with the Commission a verification acknowledging compliance with the non-monetary remedial measures, pursuant to 52 Pa. Code § 5.591.

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

6. That upon receipt of the civil penalty and the verifications acknowledging that the non-monetary remedial measures set forth in Paragraph 31 of the Joint Petition for Settlement have been fulfilled 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 Columbia Gas of : Docket No. M-2024-3038111
Pennsylvania, Inc.’s welding burn-through :
on a regulator station in Rochester, Beaver :
County, Pennsylvania :

**THE BUREAU OF INVESTIGATION AND ENFORCEMENT’S
STATEMENT IN SUPPORT OF THE
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 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,” “Respondent,” or “Company”).¹ I&E avers that the terms and conditions of the Settlement are just and reasonable and in the public interest for the reasons set forth herein.

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

I. Background

The I&E Pipeline Safety Division (“Pipeline Safety”) serves as a registered agent for the Pipeline and Hazardous Materials Safety Administration (“PHMSA”), a federal agency housed in the U.S. Department of Transportation and, as such, is contracted to enforce Federal pipeline safety standards on jurisdictional intrastate pipelines. Pipeline Safety employs engineer-inspectors who possess engineering degrees and are trained and qualified by PHMSA to perform pipeline safety inspections and verify compliance with the Federal pipeline safety standards, which the Commission has adopted for natural gas public utilities operating in the Commonwealth. 52 Pa. Code § 59.33(b). Accordingly, Pipeline Safety maintains exclusive jurisdiction over pipeline safety on the intrastate pipeline facilities of natural gas public utilities in Pennsylvania.

In this matter, Pipeline Safety conducted an in-depth investigation of a welding burn-through on a Columbia Gas regulator station in Rochester, Beaver County, Pennsylvania (“Incident”). Columbia Gas’s contractor performed an in-service repair of a welding burn-through, and Columbia Gas failed to have procedures or processes in place for making an in-service repair of a welding burn-through. The welding burn-through and in-service repair remained in service for approximately 4-months and did not result in any property damage or injury. The results of the investigation formed the basis for the allegations set forth in the Settlement Agreement.

On or about October 14, 2021, engineers with Pipeline Safety conducted an inspection of Regulator Station #4539. During the inspection, Pipeline Safety observed evidence of a welding burn-through on one of the regulator station welds. Columbia Gas

hired a contractor, Infrasource, to perform alterations on Regulator Station #4539, which remained in-service while performing the work. Columbia Gas indicated to Pipeline Safety that while performing the in-service welding on the regulator station, a burn-through occurred. The burn-through required repair and the Infrasource welder repaired the burn-through while the regulator station was in-service and operating.

At the time of repair, Columbia Gas did not have a procedure directing how to repair a welding burn-through, nor a procedure for an in-service repair of a burn-through. Pursuant to Columbia Gas procedures, welders are permitted to perform the visual inspection of their own welds, which is what occurred in this case.

Upon discovering that the regulator was still in service after the burn-through and in-service repair, Pipeline Safety requested daily leak surveys around and on the regulator station. The daily leak surveys started on October 16th, 2021, and ended on January 13th, 2022, when Columbia Gas installed a temporary regulator station at that location.

In January of 2022, Regulator Station #4539 was taken out of service so that the proper repairs could be made. On April 5th, 2022, I&E-Safety returned to Regulator Station #4539 to perform an inspection on the permanent repairs and review the daily leak survey records. The welder who performed the repair was qualified. The piping and fittings installed for the repair were pressure tested prior to installation, then soap tested, once they were installed.

The crux of I&E's allegations are that Columbia Gas's contractor performed an in-service repair of a welding burn-through and Columbia Gas failed to have procedures or processes in place directing how to repair a welding burn-through or for making an in-

service repair of a welding burn-through. Had this matter been fully litigated rather than resolved through this Settlement, I&E would have proffered evidence and legal argument that Columbia Gas violated certain provisions of the Public Utility Code, Commission regulations, and/or Code of Federal Regulations in that:

- a. Columbia Gas failed to have welding procedures in place that identify how to repair a burn-through and whether that repair can be performed when the pipeline is in-service. If proven, this is a violation of 49 CFR § 192.13(c) (General Requirements), 49 CFR § 192.225(b) (Welding Procedures), and 49 CFR § 192.245(c) (Repair or Removal of Defects); and
- b. Columbia Gas's contractor, Infrasource, inspected the burn-through weld, on which an unapproved repair was attempted without a procedure and outside the parameters of any accepted procedure, and which Columbia Gas permitted to remain in service for approximately 4-months. If proven, this is a violation of 49 CFR § 192.241(a) (Inspection and Test of Welds), 49 CFR § 192.303 (Compliance with Specifications or Standards), 49 CFR § 192.305 (Inspection), 49 CFR § 192.13(a)(1) (General Requirements), and 52 Pa. Code § 59.33(a) (Safety).

On October 4, 2024, the Parties filed a Joint Petition for Approval of Settlement in the instant matter resolving all issues between I&E and Columbia Gas. This Statement in Support is submitted in conjunction with this Settlement Agreement.

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. These discussions culminated in this Settlement Agreement, which, once approved, will resolve all issues related to I&E's informal investigation. Columbia Gas has been cooperative with I&E related to identifying policies and procedures, facilities, and training that can be further improved to assist Columbia Gas in enhancing the safety and reliability of service and to satisfy the commitments that I&E has required in the

settlement process. The Settlement, if approved, will provide substantial public benefits including improved training of field personnel and supervisory staff, improved safety procedures, and improved Quality Assurance/Quality Control practices.

Had this matter been fully litigated rather than resolved through this Settlement, I&E would have proffered evidence and legal argument that Columbia Gas violated Public Utility Code, Commission regulations, and/or Code of Federal Regulations, and which Columbia Gas would have disputed. This Settlement Agreement results from the compromises of the Parties. I&E recognizes that, given the inherent unpredictability of the outcome of a contested proceeding, the benefits to amicably resolving the disputed issues through settlement outweigh the risks and expenditures of litigation. I&E submits that the Settlement constitutes a reasonable compromise of the issues presented 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.

III. Terms of Settlement

Under the terms of the Settlement Agreement, I&E and Columbia Gas have agreed to a civil penalty and extensive remedial measures which enhance safety and directly respond to the allegations raised by I&E. A summary of the remedial measures are as follows:

1. Columbia Gas will pay a civil penalty of Nine Thousand Dollars (\$9,000.00), which will not be tax deductible or recovered in any future rate making proceeding (Paragraph 31(A));

2. Columbia Gas will develop procedures for repairs of weld burn-throughs on in-service pipelines and review these procedures with its welders (Paragraph 31(B));
3. Columbia Gas will amend its Welding Manual to clearly identify procedures for revoking a welders qualifications and will ensure its employees and contractors are knowledgeable about the procedure (Paragraph 31(C));
4. Columbia Gas has retrained and requalified the welder who performed the burn-through weld on Regulator Station #4539 and Columbia Gas will review a sampling of other welds performed by this welder (Paragraph 31(D));
5. Columbia Gas will issue an advisory bulletin and host tailgate updates regarding burn-through and in-service welding (Paragraph 31(E));
6. Columbia Gas will review and amend, as needed, its existing Quality Assurance/Quality Control practice for welds completed by second party contractors. (Paragraph 31(F));
7. Columbia Gas will conduct a causal analysis when a pipeline burn-through occurs on an in-service pipeline and for other weld related issues, as appropriate. (Paragraph 31(G)); and
8. Columbia Gas will review and amend, as needed, in-service welding procedures in its Welding Manual and related welder training (Paragraph 31(H)).

In consideration of Columbia Gas's payment of a civil penalty and numerous remedial measures, I&E agrees that it has released Columbia Gas from all past claims that were or could have been made for monetary and/or other relief based on allegations associated with the welding burn-through on a regulator station in Rochester, Beaver County, Pennsylvania.

IV. Legal Standard for Settlement Agreements

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the Parties must expend on litigating a case and 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. Comm’n, et al. v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, *et al.* (Order entered July 14, 2011) at p. 11. 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 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). 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 willful 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 submits that the conduct alleged in the Complaint does not rise to the level of willful fraud or misrepresentation, but is of a more serious nature than a mere administrative error. I&E alleges that Columbia Gas’s contractor performed an in-service repair of a welding burn-through and Columbia Gas failed to have procedures or processes in place directing how to repair a welding burn-through or for making an in-service repair of a welding burn-through. While this conduct did not result in an explosion, property damage, or injuries, I&E submits that any conduct involving in-service welding and weld integrity on natural gas pipelines should be taken seriously due to the inherent danger involved if such pipelines should leak, rupture, or otherwise fail. Further, the actions and inactions of Columbia Gas described above constitute conduct that did not cause harm or damage, but did increase the risk to public health and safety, and therefore, I&E submits that the civil penalty is warranted in this case. The seriousness of the conduct at issue is addressed in the corrective measures that the Company has already taken and will take, as well as the payment of the agreed-upon civil penalty.

The second factor considers whether the resulting consequences of Columbia Gas’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). In this case, there was no property damage, nor fatalities or injuries. As I&E has alleged, performance of an in-service burn-through repair without procedures or processes in place and that repair remaining in service for 4-months resulted in an increased risk to public safety, but no actual harm. The agreed-upon civil penalty and remedial measures of the Settlement acknowledge the potential for serious consequences and are designed to further enhance the safety of Columbia Gas's service and facilities, especially as it pertains to welds on its pipelines.

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 Gas'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). In response to this incident, Columbia Gas has engaged in appropriate measures to correct the conduct at issue and prevent similar future conduct. Columbia Gas has taken and agrees to take further remedial action. A comprehensive list of the remedial actions that Columbia Gas has taken and agreed to undertake is outlined in the Settlement Agreement at Paragraph 31. Some of the more significant remedial actions include, but are not limited to: (1) developing procedures either cut out and/or repair welds with a burn-through on in-service pipelines; (2) retraining and requalifying the

welder who performed the burn-through weld; (3) educating Columbia Gas's personnel and contractors regarding burn-throughs and in-service welding; (4) improving its Quality Assurance/Quality Control practice for welds completed by second party contractors; and (5) conducting a causal analysis when a pipeline burn-through occurs on an in-service pipeline and for other weld related issues, as appropriate.

Each of the remedial actions and commitments described at Paragraph 31 of the Settlement Agreement, address the alleged conduct at issue and are designed to prevent a similar incident from occurring again. Notably, these actions will place Columbia Gas in a better position to oversee the construction and maintenance of its facilities, improve its quality control, and reduce risk in its existing and future facilities. The remedial actions demonstrate that Columbia Gas is taking appropriate actions to enhance the safety of its distribution system, improve the reliability of its operations, and prevent similar occurrences in the future. These improvements will provide a significant benefit to public safety.

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). In this matter, there is no evidence that customers were affected.

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.* Columbia Gas has had a recent history of

compliance issues in the preceding 10-year time period. In that time span, there were four significant settlements entered into based on Columbia Gas's failure to follow the Code, Commission regulations, and/or the Code of Federal Regulations.² It should be noted that the prior history mainly involved issues of over pressurization, an issue not present in the instant matter. In this matter, the repair of the burn-through weld without procedures did not lead to a gas release, explosion, property damage, injuries, or death.

The seventh factor to be considered relates to whether the Company cooperated with the Commission's investigation. 52 Pa. Code § 69.1201(c)(7). "Facts establishing bad faith, active concealment of violations, or attempts to interfere with Commission investigations may result in a higher penalty." *Id.* As previously referenced, Columbia Gas cooperated with I&E's investigation and has been cooperative with I&E related to identifying policies and procedures, facilities, and training that can be further improved to assist UGI in enhancing the safety and reliability of service and to satisfy the commitments that I&E has required in the settlement process.

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 given the nature

² In *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket No. M-2014-2306076 (Order entered December 18, 2014) Columbia Gas paid a civil penalty in the amount of \$200,000 in connection with incidents that included failure to check and service valves at the required regulatory interval, pipelines operating at pressures exceeding the maximum allowable operating pressure, and lack of pressure regulation devices to prevent accidental over pressuring. In *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket No. M-2016-2378672 (Order entered December 7, 2017), Columbia Gas paid a civil penalty amount of \$50,000.00 following two separate incidents of contractor employee injuries in 2013. In *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket No. M-2022-3012079 (Order entered August 3, 2023), Columbia Gas entered into a settlement agreement, in which, it agreed to pay a civil penalty of \$990,000 following an over pressurization incident that led to a natural gas explosion, causing injuries to four individuals and significant property damage. In *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket No. M-2021-3005572 (Order entered August 24, 2023), Columbia Gas entered into a settlement agreement, in which, it agreed to pay a civil penalty of \$535,000 following allegations of overpressure events that did not result in harm or property damage.

of Columbia Gas's conduct and the nature of the resulting consequences, a civil penalty amount of \$9,000.00, which is not tax deductible, nor recoverable from ratepayers, is an appropriate penalty payment in this case. I&E further submits that the monetary cost of Columbia Gas's performance of all of the remedial measures is sufficient to deter Columbia Gas from committing future violations.

The ninth factor to be considered relates to past Commission decisions in similar situations. 52 Pa. Code § 69.1201(c)(9). I&E submits that the instant Settlement provides comparable or even superior relief to prior enforcement matters involving similar pipeline safety violations. The instant Settlement Agreement should be viewed on its own merits and is fair and reasonable. However, in looking at the relevant factors that are comparable to other pipeline matters involving pipeline safety violations that resulted in serious consequences, the instant Settlement is consistent with past Commission actions, in that a substantial civil penalty will be paid and numerous, valuable corrective actions to address the alleged violations will be or have been performed.

The tenth factor considers "other relevant factors." 52 Pa. Code § 69.1201(c)(10). I&E submits that an additional relevant factor – whether the case was settled or litigated – is of pivotal importance to this Settlement Agreement. A settlement avoids the necessity for the governmental agency to prove elements of each allegation. In return, the opposing party in a settlement agrees to a lesser fine or penalty, or other remedial action. Both Parties negotiate from their initial litigation positions. The fines and penalties, and other remedial actions resulting from a fully litigated proceeding are difficult to predict and can differ from those that result from a settlement. Reasonable settlement terms can

represent economic and programmatic compromise while allowing the Parties to move forward and to focus on implementing the agreed upon remedial actions and enhancing public safety.

In conclusion, I&E fully supports the terms and conditions of the Settlement Agreement. 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 is in the public interest. Acceptance of this Settlement Agreement in its entirety 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 being in the public interest and respectfully requests that the Commission approve the Settlement in its entirety without modification.

Respectfully submitted,



Colby B. Widdowson
Prosecutor
PA Attorney ID No. 326185

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Dated: October 11, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement's :
Investigation of Columbia Gas of : Docket No. M-2024-3038111
Pennsylvania, Inc.'s welding burn-through :
on a regulator station in Rochester, Beaver :
County, Pennsylvania :

**COLUMBIA GAS OF PENNSYLVANIA, INC'S
STATEMENT IN SUPPORT OF SETTLEMENT AGREEMENT**

Columbia Gas of Pennsylvania, Inc. ("Columbia Gas" or "the Company"), by and through its counsel, hereby respectfully submits its Statement in Support of the Settlement Agreement 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")(Columbia Gas and I&E referred to collectively as "the Parties") 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 described in the Joint Petition for Approval of Settlement ("Settlement" or "Settlement Agreement"), this Settlement resolves an investigation by I&E relating to a welding burn-through that I&E's Pipeline Safety Division observed during an

October 14, 2021 inspection of Columbia Gas's Regulator Station #4539 located in Rochester, Beaver County, Pennsylvania and the in-service repair of that welding burn-through.

2. I&E and other bureaus with enforcement authority are the entities established by statute to initiate proceedings against public utilities that are prosecutory in nature. (*Delegation of Prosecutory Authority to Bureaus with Enforcement Responsibilities*, M-00940593, Order entered September 2, 1994), as amended by Act 129 of 2008, 66 Pa.C.S.A § 308.2(a)(11). Moreover, pursuant to Section 59.33(b) of the Commission's regulations, 52 Pa. Code § 59.33(b), I&E's Safety Division has the authority to enforce Federal pipeline safety laws and regulations set forth in 49 U.S.C.A. §§ 60101-60503 and as implemented at 49 CFR Parts 191-193, 195 and 199.

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

II. PARTIES' POSITIONS

4. The averments of I&E contained in the Settlement Agreement were formulated without the benefit of a hearing and certain averments are or may be disputed by Columbia Gas. As stated in Paragraph 26 of the Settlement, had this matter been fully litigated rather than resolved through this Settlement, Columbia Gas would have contended that it did not violate provisions of the Public Utility Code, Commission regulations, and/or Code of Federal Regulations.

5. The Parties' agreement to settle the matters described in I&E's averments was made without any admission or prejudice to any position that they might adopt during any

subsequent administrative or court proceeding of whatever nature, including any necessary subsequent litigation of the issues addressed in the Settlement Agreement if this settlement is rejected by the Commission or otherwise properly withdrawn by either of the parties.

III. SETTLEMENT AGREEMENT

6. The parties to the Settlement Agreement have engaged in extensive and detailed discussions with respect to each of the matters described in Paragraphs 11 through 25 under the heading "Background" and the alleged violations in Paragraphs 25 of the Settlement Agreement. The purpose of this Settlement Agreement is to resolve these matters without litigation in a manner that minimizes concerns regarding future similar events.

7. Columbia Gas has been cooperative and pro-active in addressing the concerns identified in the Settlement Agreement, including the alleged violations identified in Paragraph 25 of the Settlement Agreement.

8. Based upon the foregoing, under Paragraph 31 of the Settlement Agreement the parties have agreed to the entry of an Order directing as follows:

A. **Civil Penalty:**

Columbia Gas will pay a civil penalty in the amount of Nine Thousand Dollars (\$9,000.00) pursuant to 66 Pa.C.S. § 3301(c). Said payment will be made within thirty (30) days of the entry date of the Commission's Final Order approving the Settlement Agreement. ***

*** The civil penalty will not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f). Columbia Gas will not seek recovery of any portion of any agreed upon total civil penalty amount in any future ratemaking proceeding.

B. Procedures Related to Welding Burn-Throughs and In-Service Repairs:

Columbia Gas shall develop procedures and directions to either cut out and/or repair welds with a burn-through on in-service pipelines and review the procedure with all employee and contract welders welding on Columbia Gas facilities.

C. Procedures Related to Revocation of Welder Qualifications:

Columbia Gas shall amend its Welding Manual, to reference the Columbia Operator Qualification Plan Section E: Reasonable Cause to Verify Qualification, and "Review of Individuals (Field Failures)" as they pertain to welder performance. Columbia Gas will also ensure that employees and contractors are knowledgeable about this procedure.

D. Retraining, Requalification, and Inspection of Welds:

The welder who performed the burn-through weld at Regulator Station #4539 has been retrained and requalified by Columbia Gas. Within 30 days of the issuance of a final order approving this settlement, Columbia Gas will provide I&E Pipeline Safety a list of all LP project jobs on which this welder completed welds, from which I&E Pipeline Safety will select a sample size and location where Columbia Gas will conduct visual, and if necessary, a non-destructive review of the welds.

E. Advisory Bulletin and Tailgate Updates:

Columbia Gas will issue an advisory bulletin and host tailgate updates to all appropriate company and contractor personnel regarding burn-through and in-service welding.

F. Quality Assurance/Quality Control Practice:

Columbia Gas will review and amend, as needed, its existing Quality Assurance/Quality Control practice for welds completed by second party contractors. The results of Columbia Gas's review will be made available to I&E Pipeline Safety.

G. Causal Analysis for Welding Issues:

Columbia Gas will conduct a causal analysis when a pipeline burn-through occurs on an in-service pipeline. Columbia Gas will also conduct a causal analysis for other weld related issues, as appropriate.

H. In-Service Welding Procedures:

Columbia Gas will review and amend, as needed, in-service welding procedures in its Welding Manual and related welder training.

9. Columbia Gas submits that the Settlement Agreement is in the public interest and, therefore, requests that the Commission approve the Settlement Agreement as such. The Settlement Agreement is expressly conditioned upon the Commission's approval without modification. The Parties have agreed that if the Commission 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 entry of an Order modifying the Settlement.

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

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

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

12. Under this Policy Statement, the Commission will consider specific factors when evaluating settlements of alleged violations of the Public Utility Code and Commission's Regulations. These factors are: (1) Whether the conduct at issue was of a serious nature, such as willful fraud or misrepresentation; (2) Whether the resulting consequences of the conduct at issue were of a serious nature, such as personal injury or property damage; (3) Whether the conduct at issue was deemed intentional or negligent (may only be considered when evaluating litigated cases); (4) Whether the regulated entity made efforts to modify internal policies and procedures to address the conduct at issue and prevent similar conduct in the future; (5) The number of customers affected and the duration of the violation; (6) The compliance history of the regulated entity that committed the violation; (7) Whether the regulated entity cooperated with the Commission's investigation; (8) The amount of the civil penalty or fine necessary to deter future violations; (9) Past Commission decisions in similar situations; and (10) Other relevant factors. 52 Pa. Code § 69.1201(c).

13. 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).

14. Regarding the first standard and starting point in the Policy Statement, whether the conduct at issue was of a serious nature, such as willful fraud or misrepresentation, there is no suggestion in the Background or Alleged Violations sections of the Settlement Agreement that Columbia Gas engaged in willful fraud or misrepresentation. Notwithstanding, Columbia Gas recognizes and acknowledges that the provision of natural gas service to the public is, by its nature, a serious matter and that a leaking gas facility associated with a welding burn-through can result in property damage, personal injury and/or loss of life. The terms of the

Settlement Agreement adequately take Columbia Gas's alleged conduct into account, while also taking the Company's response to the incident into consideration.

15. Regarding the second standard set out in the Policy Statement, whether the resulting consequences attributable to the conduct at issue were of a serious nature, Columbia Gas refers to Paragraph 15 of the Settlement, wherein the parties state that "While the welding burn-through and in-service repair remained in service, there were no explosions, property damage, or injuries." Columbia Gas submits that the terms of the Settlement Agreement, including the proposed civil penalty, appropriately reflect the consequences attributable to the alleged conduct at issue. The corrective actions the Company has agreed to implement are designed to minimize the likelihood that a similar incident will occur in the future.

16. 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.

17. Under the fourth standard in the Policy Statement, the Commission will consider modifications that may include activities such as training and improving company techniques and supervision, as well as the time it took to correct the conduct, and the involvement of top-level management in correcting the conduct. All of these considerations weigh in favor of approval of approving the Settlement in this matter. The Settlement Agreement describes Columbia Gas's commitments regarding: modifications to procedures related to welding burn-throughs and in-service repairs; amendments to the Company's welding manual; retraining and requalification of the welder at issue that Columbia proactively undertook; inspection of a sample of the welder's completed welds (sample size to be selected by I&E); issuance of an advisory bulletin and hosting tailgate updates to employees and contractors; review of the Company's quality assurance/quality control practices, and sharing the results with I&E; causal

analyses for future welding burn-throughs or other weld related issues, and; review and amendment, as needed, of Columbia Gas's in-service welding procedures and related welder training. These measures have been reviewed and approved by the Company's senior management.

18. Regarding the fifth standard in the Policy Statement, no customers were affected by the alleged conduct at issue. Columbia acknowledges that the burn-through and in-service repair of the weld at issue remained in service for approximately four months, and submits that the terms of the Settlement appropriately reflect that duration.

19. Regarding the sixth standard in the Policy Statement, in the past twelve years the Commission has assessed civil penalties ranging from \$50,000 to \$990,000 pursuant to settlements between Columbia Gas and I&E related to allegations of gas safety violations. *See* Docket Nos. M-2014-2306067; M-2016-2378672; M-2021-3005572; and M-2022-3012079.

The alleged conduct in the case that is the subject of the current Settlement Agreement is different than the conduct at issue in those prior matters, and there is no prior history of the Company's safety violations regarding welding in general, or welding burn-throughs and in-service repairs specifically. The civil penalty that Columbia Gas and I&E have agreed upon in the instant matter reflects that history.

20. Regarding the seventh standard in the Policy Statement, Columbia Gas maintains that the Company cooperated with I&E in its investigation. Columbia Gas provided timely responses to data requests submitted to the Company by I&E during the course of its investigation.

21. Regarding the eighth standard in the Policy Statement, Columbia Gas submits that the proposed civil penalty of \$9,000 will adequately serve to deter future violations, especially in light of the non-monetary remedial measures under the Settlement Agreement that are meant to mitigate the risk of future occurrences like the incident that is the subject of this proceeding. As noted above, there is no history of Columbia Gas safety violations regarding welding issues.

22. Regarding the ninth standard in the Policy Statement, as discussed in Paragraph 19, above, the alleged conduct in the case that is the subject of the current Settlement Agreement is different than the conduct at issue in those prior matters. Columbia Gas is unaware of past Commission decisions that address welding burn-throughs and or in-service weld repairs.


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

24. 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. Columbia Gas submits that the Settlement Agreement is in the public interest because it recognizes the gravity of the alleged incident, while effectively addressing and resolving the issues raised by the ensuing investigation, and avoids the time and expense of litigation, which would entail hearings, filings of briefs, exceptions, reply exceptions, and possible appeals.

The Company has also agreed to pay a civil penalty and to comply with the Commission's Regulations. The Settlement Agreement clearly meets the standards set forth in Section 69.1201.

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

Respectfully submitted
COLUMBIA GAS OF PENNSYLVANIA, INC.

By: 
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Date: October 11, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :
Bureau of Investigation and :
Enforcement's Investigation of Columbia :
Gas of Pennsylvania, Inc.'s welding burn- : Docket No. M-2024-3038111
through on a regulator station in :
Rochester, Beaver County, Pennsylvania :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Joint Petition for Approval of Settlement 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:

Theodore J. Gallagher, Esq.
121 Champion Way, Suite 100
Canonsburg, PA 15317
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Counsel for Columbia Gas of Pennsylvania, Inc.



Colby B. Widdowson
Prosecutor
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Date: October 11, 2024