

GRANT OF EASEMENT

THIS EASEMENT AGREEMENT, made this day of , 2001, between THE COUNTY OF YORK, PENNSYLVANIA, a municipality of the Commonwealth of Pennsylvania (“Grantor”), and COLUMBIA GAS OF PENNSYLVANIA, INC., a Pennsylvania Corporation, with its principal offices at 650 Washington Road, Pittsburgh, PA 15228 (“Grantee”).

WHEREAS, Grantor, owns a line of railroad, as recorded with the County of York, Recorder of Deeds at Plan Book Volume 107C, Pg 1075, deed dated July 13, 1990, generally known as the former Northern Central Line, identified by the USRA Line No. 145 and or one or more of its predecessors, entered into separate agreements, set forth in Appendix “A”, attached hereto and made a part hereof, with Grantee or its predecessors to permit the construction, installation, maintenance, and use of certain crossings and occupations described in said Appendix over, across, along, or under the land and tracks of Grantor at various locations in the County of York, State of Pennsylvania (“Agreement” or “Agreements”); and

WHEREAS, the Agreements generally provide for annual payments; and

WHEREAS, the parties hereto desire to replace the Agreements with one permanent and irrevocable easement document and to establish the terms and conditions under which this Grant of Easement may be extended to cover the installation of new or additional gas or communication facilities upon the property of Grantor by Grantee;

NOW, THEREFORE, Grantor, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of Grantee keeping and performing the covenants and conditions hereinafter stated on the part of Grantee to be kept and performed, does hereby grant and convey unto Grantee, its successors and assigns, to the extent the title of Grantor so permits, an easement and uninterrupted right in its property to maintain, repair, alter, add to, renew, replace, relocate, use and remove those certain pipe and wire crossings and occupations over, across, along or under the lands and tracks of Grantor, now existing pursuant to the Agreements and Consent Agreements. Such crossings and occupations, in their present form or as modified pursuant to any provision of this Easement Agreement, together with any appurtenances thereto are hereinafter referred to singularly as the “FACILITY” and collectively as the “FACILITIES”.

TOGETHER WITH the right of ingress and egress to and over said property, and any adjoining land of Grantor, insofar as necessary for the construction, maintenance, repair, alteration, renewal, relocation, use and removal of the FACILITIES, after proper notification to Grantor’s designee.

TOGETHER also with the right from time to time to trim, cut or remove trees and underbrush that may, in the judgment of Grantee, interfere with or endanger the FACILITIES after ten (10) days notice to the Grantor’s designee.

TO HAVE AND TO HOLD, all and singular the aforesaid rights unto the Grantee, its successors and assigns, under and subject to the express conditions hereinafter set forth:

1. (a) The maintenance, repair, alteration, addition, renewal, replacement, relocation or removal (“Work”) of the FACILITIES shall be performed satisfactory to and approved by Grantor’s designee, which approval shall not be unreasonably withheld and shall not interfere with the proper and safe use and operation of the property of Grantor. Provided, however
 - (i) if any governmental entity having jurisdiction over the FACILITIES has determined the manner and means of accomplishing the Work, then such determination shall prevail, provided such determination is more restrictive and Grantee agrees to comply therewith at all times at its sole cost and expense.
 - (ii) Grantee shall provide advance notification to Grantor prior to performing any Work except in the event of an emergency, in which case Grantee shall provide notification to Grantor of all Work performed promptly after the completion of the Work.
 - (iii) in the event the Work involves new construction, additions to, expansion or changes in the FACILITIES, beyond the addition of additional conductors to convert an existing crossing from single phase to three phase, Grantee agrees to purchase an “Addendum to Grant of Easement” similar to Appendix “B” attached hereto and made a part hereof, which changes must be mutually agreed to by Grantor and Grantee. However, for transverse crossings only, Grantee may replace existing FACILITIES with similar FACILITIES including higher pressure up to a maximum of 200 psig at no additional fees due Grantor.
 - (iv) Grantee may install for its own use telephone wires and circuits at no additional fees due Grantor.
- (b) Grantee, at its sole cost and expense, when performing any Work in connection with the FACILITIES, shall furnish watchmen and flagmen to keep persons, equipment and materials a safe distance from the tracks and operations of Grantor.
- (c) Grantee has procured or will procure adequate general liability insurance to protect the Grantor, and will name the County, Heritage Rail Trail County Park as an additional insured and will provide Grantor with periodic notices of renewal.

2. Grantee shall be responsible, on its own initiative, for maintaining, repairing and renewing the FACILITIES and in addition, shall, upon notice from Grantor, promptly make such repairs and renewals thereto as may be required by Grantor, unless however Grantee can demonstrate to Grantor that the FACILITIES are in satisfactory condition within ninety (90) days after receipt of such notice.

3. Grantee shall comply with all statutes, rules, regulations, orders, directives, ordinances and similar promulgations of law applicable to the FACILITIES, and shall assume all cost, expense and responsibility in connection therewith.

4. If a claim or action is made or brought against either party and for which the other party may be responsible hereunder in whole or in part, such other party shall be notified and permitted to participate in the handling or defense of such matter.

5. In the event Grantee determines that all or part of any easement granted by this Grant of Easement, as shown in Appendix "A" is no longer essential in connection with the use provided for hereunder, Grantee shall (a) remove from Grantor's property, in a manner satisfactory to Grantor, such of the FACILITIES as have been abandoned and restore said property, in a manner satisfactory to Grantor, and (b) deliver to Grantor a release of Grant of Easement in recordable form, with respect to such easement or portion thereof no longer required.

6. Grantee at the sole cost and expense of Grantor, and commencing within ninety (90) days following receipt of notice from Grantor, shall take such action as Grantor may specify in order to accommodate relocation or improvement of Grantor's railroad operating facilities. If necessary, Grantor shall provide so much of its adjoining land to Grantee as may be available without additional compensation from Grantee.

7. If any third party successfully challenges Grantor's right to grant the easements herein granted on the grounds that Grantor did not have sufficient interest in such easement areas to convey such easements, Grantor consents and agrees in such event, and insofar as it may lawfully do so, to the acquisition by Grantee of such easements in and over such easement areas by the power of eminent domain and Grantor shall pay to Grantee, the amount of consideration paid under this Grant of Easement by Grantee, prorated, however, to the portion or portions of the interest so challenged.

8. In the event Grantor shall sell or in any way dispose of any portion of its land that involves the agreements set forth in Appendix "A", attached hereto and made a part hereof, for the use other than as an operating railroad, the parties hereto recognizing the fact that the said agreements do not contain a defined right-of-way width, hereby agree that the following will apply: For longitudinal facilities, the below listed widths will be reserved for the benefit of Grantee upon date of sale or disposal. Said widths to be based on the pressure of the lines as stated within the aforesaid consent agreements, the pressure and widths listed below and measure from the centerline of the crossing:

AGREEMENT PRESSURE

TOTAL MAXIMUM WIDTH

60 PSIG and below

30 Ft.

60 PSIG and 200 PSIG

50 Ft.

In the case of underground transverse crossing FACILITIES, Grantor reserves for the benefit of Grantee upon date of sale or disposal, the maximum width of fifteen (15) feet on either side of the center line of the pipe, conduit or duct bank.

9. The words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this Grant of Easement so requires.

10. The terms and conditions of this Grant of Easement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

11. Grantee hereby agrees to pay all costs and fees in conjunction with the filing or recording of this instrument and any plans in conjunction therewith in or with any public place or with any public agency or subdivision. All costs related to the preparation of this document and Appendices "A" and "B" shall be borne by Grantee.

12. Every notice, approval, consent, demand or other communication required or permitted under this Grant of Easement shall be deemed sufficiently given if sent postage prepaid by overnight courier or United States certified or registered mail, addressed as follows:

TO GRANTOR: York County Department of Parks and Recreation
400 Mundis Race Road
York, PA 17402

TO GRANTEE: Columbia Gas of Pennsylvania, Inc.
150 Hillside Drive
Bethel Park, PA 15102

Either party may change its address by notice given to the other. Notice shall be deemed given when received.

13. The rights granted herein are at all times subordinate to those granted to MCI Telecommunications Corporation (MCI) pursuant to its agreement with Grantor dated October 19, 1994. Except in accordance with the terms thereof, Grantee shall not interfere with or disturb any MCI facilities or the system. Grantee shall

indemnify MCI and hold MCI harmless from all liability, claims, damages, costs and expenses (including reasonable attorney's fees) arising out of Grantee's interfering with the use, operation or maintenance of MCI facilities.

14. The failure or delay on the part of either party to enforce or exercise at any time any of the provisions, rights or remedies in the Grant shall in no way be construed to be a waiver thereof, nor in any way to affect the validity of this Grant of Easement or any part hereof, or the right of the party to thereafter enforce each and every such provision, right or remedy. No waiver of any breach or violation of this Grant shall be held to be a waiver of any other subsequent breach or violation.

15. This Easement Agreement shall be construed, governed and enforced in accordance with the laws of Pennsylvania.

16. Any and all obligations, liabilities or covenants which arose, may have arisen or were incurred by either party prior to the termination or partial termination of this Grant of Easement shall survive such termination.

17. This Easement Agreement shall take effect at the expiration of thirty (30) days from the time it is filed with the Pennsylvania Public Utility Commission, or, in the event proceedings with respect thereto are instituted by the Commission pursuant to the provisions of the Public Utility Law, upon the grant of approval thereof by the Commission.

SPACE INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused this Grant of Easement to be fully executed the day and year first above written.

REVIEW AND APPROVED BY:

York County Department of Parks and Recreation

COMMISSIONERS-COUNTY OF YORK,
PENNSYLVANIA

Attest: _____

Christopher B. Reilly, Pres. Commissioner

James F. Donahue, Commissioner

Shirley L. Glass, Commissioner

COLUMBIA GAS OF PENNSYLVANIA, INC.

Attest: _____

PRINT NAME _____

TITLE _____

By: _____

PRINT NAME _____

TITLE _____

ACKNOWLEDGEMENT

Commonwealth of Pennsylvania :
 : ss
County of York :

On this, the _____ day of _____, 2001, before me a Notary Public, the undersigned officer, personally appeared Christopher B. Reilly, who acknowledged himself to be President Commissioner of the County of York, a municipality of the Commonwealth of Pennsylvania, and that he as such Commissioner, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the County by himself as Commissioner.

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public

ACKNOWLEDGEMENT

Commonwealth of Pennsylvania :
 : SS
County of York :

On this, the _____ day of _____, 2001, before me a Notary Public, the undersigned officer, personally appeared James F. Donahue, who acknowledged himself to be Commissioner of the County of York, a municipality of the Commonwealth of Pennsylvania, and that he as such Commissioner, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the County by himself as Commissioner.

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public

ACKNOWLEDGEMENT

Commonwealth of Pennsylvania :
 :
County of York : : SS

On this, the _____ day of _____, 2001, before me a Notary Public, the undersigned officer, personally appeared Shirley L. Glass, who acknowledged herself to be Commissioner of the County of York, a municipality of the Commonwealth of Pennsylvania, and that she as such Commissioner, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the County by herself as Commissioner.

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public

11.

APPENDIX "A", YORK COUNTY

Date

Location

Mile Post

APPENDIX "B"
ADDENDUM TO EASEMENT

This ADDENDUM TO EASEMENT AGREEMENT, made this _____ day of _____, 20__ between The County of York, Pennsylvania, a municipality of the Commonwealth of Pennsylvania (herein referred to as "Grantor") and Columbia Gas of Pennsylvania, Inc., a Pennsylvania Corporation, (herein referred to as "Grantee").

WHEREAS, the parties hereto have entered into a Grant of Easement on ___ day of _____, 2001, Grantor's Registry Number _____, and recorded on the ___ day of _____, 2001 in Deed/Record Book _____ at Page _____, in the County of York, and the State of Pennsylvania, and

WHEREAS, the parties hereto desire to addend the aforementioned Easement Agreement by the including of certain facilities as follows: _____

_____ crossing over, across, or under the land and tracks of Grantor's _____, Line Code _____, at Mile Post _____ (Valuation Station _____) at a point _____ in the _____ of _____, in the County of York, and State of Pennsylvania, in accordance with and as shown on Plan Number _____, dated _____, attached hereto and made a part hereof.

NOW, THEREFORE, Grantor, for and in consideration of One Dollar (\$1.00), and other good and valuable considerations, the receipt and sufficiency of which hereby acknowledged, and in further consideration of Grantee keeping and performing covenants and conditions of the aforesaid Easement Agreement does hereby grant and convey to Grantee, its successors and assigns, to the extent the title of Grantor so permits, an easement only for the actual physical space and dimensions required for the new facilities or additional crossing and for the right to construct, maintain, repair, alter renew, replace, relocate, use and remove, which shall be subject to all terms of the aforesaid existing Easement Agreement.