

130 FERC ¶ 61,179
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
and John R. Norris.

Columbia Gas Transmission LLC

Docket No. CP08-431-001

ORDER DENYING COMPLAINTS

(Issued March 15, 2010)

1. Charles R. and Melanie A. Ogle have filed some 33 pleadings regarding Columbia Gas Transmission LLC's (Columbia) expansion of its Crawford Storage Field in Fairfield and Hocking Counties, Ohio.¹ In this order, the Commission will deny those pleadings styled as complaints, as well as the accompanying motions for stay and oral hearing.

I. Background

2. On March 19, 2009, the Commission granted Columbia authorization to expand storage capabilities at its Crawford and Weaver Storage Fields in Ohio, including the placement of a storage well on land owned by the Ogles.² Among other matters, the order discussed proposals by the Ogles to alter the location of certain of Columbia's proposed facilities and to revise certain construction-related activities, granting some of the Ogles' requests and denying others.³ On rehearing of the March 19 Order, the Commission considered, and denied, arguments by the Ogles that the construction

¹ The Ogles filed complaints on October 11, 19, 26, and 28, November 5, 9, 12, 13, 16, 17, 18, 22, 23, 24, and 30, and December 8, 2009. They filed comments on October 12, 13, 16, and 23, November 23, 25, and 27, December 1, 2, 9, 11, 14, 17, and 21, 2009, and January 27, 2010. In addition, the Ogles filed a motion for oral hearing on December 21, 2009 and, on January 4, 2010, a motion for stay of Columbia's request to place in service a storage well on the Ogles' property.

² *Columbia Gas Transmission Corp.*, 126 FERC ¶ 61,237 (2009).

³ *See id.* P 72-79.

proposed by Columbia would have undue impacts on them and that Columbia should be required to alter various components of its proposed project.⁴

3. On July 31, 2009, the Commission's staff authorized Columbia to begin construction. On August 24, 2009, the Ogles filed a motion for a stay of Columbia's construction activities on their property, asserting that Columbia did not have authority under an existing lease to drill the proposed well. On August 26, 2009, the Commission issued a notice dismissing the motion for stay, explaining that the Commission had stated in prior orders that the issue of whether an existing lease agreement between Columbia and the Ogles permitted the contemplated construction activities was outside the Commission's jurisdiction, and that the motion for stay raised no new issues that the Commission had not previously considered.⁵

4. On September 29, 2009, the Ogles filed another motion for stay. The Ogles repeated their contention that Columbia did not have permission under the lease to drill the proposed well. On October 9, 2009, the Commission issued an order denying the motion for stay, finding that the Ogles made no allegation that failure to issue a stay would cause them irreparable harm nor did they allege why a stay would be in the public interest.⁶

5. Subsequently, the Ogles filed 33 separate pleadings, including 16 complaints.⁷ On January 15, 2010, Commission staff granted Columbia's request to place the storage well on land owned by the Ogles into service.⁸

II. Discussion

6. The Commission's Rules of Practice and Procedure require a complainant to meet certain minimum requirements. Specifically, Rule 206 requires complainants to "[c]learly identify the action or inaction which is alleged to violate applicable statutory

⁴ *Columbia Gas Transmission Corp.*, 128 FERC ¶ 61,179 (2009).

⁵ See August 26 notice, *citing Ogle v. Columbia Gas Transmission Corp.*, 125 FERC ¶ 61,116 (2008).

⁶ *Columbia Gas Transmission LLC*, 129 FERC ¶ 61,021 (2009).

⁷ See footnote 1.

⁸ The Ogles' motion for stay of Columbia's request to place the well into service is therefore dismissed as moot.

standards or regulatory requirements [and] [e]xplain how the action or inaction violates applicable statutory standards or regulatory requirements.”⁹

7. The complaints filed by the Ogles fail to meet these basic standards. While the Ogles object to certain of Columbia’s activities on their property, their pleadings fail to explain how those activities violate either the Natural Gas Act or the Commission’s regulatory requirements. The complaints are therefore denied, as is the Ogles’ motion for an oral hearing. Notwithstanding the fact that we have made extensive efforts to explain our processes both in our prior orders in this proceeding and through direct outreach to the Ogles by our Office of External Affairs, we will take one last opportunity to address the Ogles’ concerns.¹⁰

8. The Ogles’ complaints take issue with the location and size of a storage well and of an access road, both of which were approved in the Commission’s order granting Columbia authority to expand the storage field.¹¹ The Ogles had a number of opportunities to raise arguments about Columbia’s proposed activities during the certificate process and on rehearing, and they did so. As described above, the Commission has already thoroughly considered the Ogles’ arguments, and we will not revisit them at this time. Likewise, we decline to reconsider the Ogles arguments that Columbia lacks the requisite permission under a pre-existing lease to perform the construction activities authorized on the Ogles’ property by the certificate order.¹²

9. A number of issues raised in the complaints highlight the strained relationship between the Ogles and Columbia. In an optimal situation, company personnel and landowners can come to agreement on many site-specific issues such as those raised by the Ogles, and, indeed, we have found that Columbia was able to resolve issues with a number of other landowners.¹³ Unfortunately, that did not prove to be the case with the

⁹ 18 C.F.R. § 385.206(b) (2009).

¹⁰ As referenced above, the Ogles have also filed a number of comments that were not submitted as complaints. Because the issues raised in those comments were also detailed in those filings submitted as complaints, we will not address the additional comment pleadings separately.

¹¹ See complaints filed October 11 and November 5, 2009.

¹² See complaints filed October 26, and 28, November 5, 9, 12, 13, 16, 17, 18, and 24, and December 8, 2009. As noted above, matters concerning the construction of the lease are outside our jurisdiction.

¹³ See *Columbia Gas Transmission Corporation*, 128 FERC ¶ 61,179 at P 22.

Ogles. However, as discussed in the previous orders and described below, we have found no impropriety in Columbia's actions.

10. After conflict between the Ogles and local law enforcement concerning construction activities on the Ogles' property, Columbia hired private security for its construction site.¹⁴ The Ogles object to the presence of private security on their property¹⁵ and also complain about how they were allegedly treated by the security personnel. The Commission expects companies to take responsibility for ensuring that any security personnel they employ treat landowners with respect and identify themselves, if asked. Commission staff also informed Columbia that the security personnel used for the project should remain on the project's right-of-way. However, the Commission has no independent regulatory authority to address allegations of trespass, nor can we effectively monitor day-to-day personal interactions on construction sites. Moreover, there is nothing inherently improper in natural gas companies providing security for their workers and facilities. Accordingly, we find no basis here for pursuing this issue further. The Ogles must pursue any complaints on this subject with local law enforcement authorities.

11. The Ogles' complaints also take issue with Columbia's removal of a barn adjacent to the well site.¹⁶ The environmental assessment did not identify a barn structure within the project area. The Ogles subsequently placed a barn in the vicinity of the proposed well site, and then argued that construction by Columbia in the vicinity of such a structure was prohibited. In constructing its authorized facilities, Columbia dismantled the barn and moved the building material outside the construction area. The Ogles' continuing efforts to block construction reflect the unfortunate hostility between the parties, but the barn was not a subject of our orders, and any disputes regarding it must be dealt with in another forum.

12. The Ogles complain of Columbia's removal of stumps¹⁷ and woodchips¹⁸ from their property. Stumps are generally considered construction debris and are typically

¹⁴ *Woman Maced following dispute with utility workers*, Logan Daily News, September 10, 2009.

¹⁵ *See* complaints filed October 19, 26, and 28, November 5, 12, 24, and 30, and December 8, 2009.

¹⁶ *See* complaints filed October 19 and 28, 2009.

¹⁷ *See* complaints filed November 22 and December 8, 2009.

¹⁸ *See* complaints filed October 28 and December 8, 2009.

hailed off the construction right-of-way, subject to the wishes of the landowner. Optimally, discussions on this matter would have occurred; however, given the state of relations between the parties, they did not. We find no evidence that Columbia acted unreasonably in removing the stumps in the absence of any agreement to the contrary. As for the removal of woodchips produced during construction, Columbia has agreed in writing to provide the Ogles with a substitute quantity of wood chips to be delivered to their property upon the Ogles' request after completion of all project activities.¹⁹ Therefore, this matter appears to be closed.

13. The Ogles' complaints mention Columbia's removal of a tree from outside of the staked access road location.²⁰ Columbia indicated to Commission staff that the tree was located in the right-of-way for the existing road and that Columbia had received county approval for the removal. Given the circumstances, we find this action to be reasonable.²¹

14. The Ogles allege that the fence constructed by Columbia to keep livestock out of the construction area was inadequate and that a gate was often left open.²² When the need for fencing was identified, Commission staff instructed Columbia that the fence should be constructed so as to adequately keep livestock in or out (as the case may be) and kept in good repair. Typically, the landowner and company would negotiate the specific type of fence to be constructed. In this instance, while the Ogles have complained about the adequacy of the fence, they have not alleged that any livestock was lost or harmed. Thus, we find no fault with Columbia in this matter. As with other issues raised by the Ogles, if they allege that Columbia's actions resulted in loss or harm to livestock, they may seek remedies in a court of appropriate jurisdiction.

15. The Ogles allege that erosion has occurred near a wet-weather ditch from which their cattle drink.²³ Columbia states that an inspector from the Ohio Environmental Protection Agency visited the well site in response to a complaint regarding potential sediment discharge into a creek and found no such discharge. Likewise, Commission

¹⁹ See Supplement to Columbia Gas Transmission's Bi-Weekly Construction Report No. 19 filed December 15, 2009.

²⁰ See complaints filed October 19 and December 8, 2009.

²¹ We have previously disposed of other complaints by the Ogles regarding tree removal. See *Columbia Gas Transmission Corporation*, 128 FERC ¶ 61,179 at P 20.

²² See complaints filed October 26 and 28, November 16, 17, and 23, 2009.

²³ See complaints filed October 26 and 28, 2009.

staff conducted on-site inspections of the well site and did not identify any sediment traveling into nearby waterbodies. Consequently, we find no basis for the Ogles' complaint.

16. The Ogles' complaints state that the storage well was not drilled in the location approved by the Commission, and that Columbia should have therefore requested a variance.²⁴ Commission staff has verified that the well was, in fact, drilled within the location approved by the Commission and we find no merit to the Ogles' contentions to the contrary.

17. Finally, the Ogles allege that their water wells have not been tested to their satisfaction, and that soil contamination has occurred on their property.²⁵ The water wells in question are located more than 150 feet from the storage well, which is our standard distance limit for required well-water testing. Therefore, we will not require the requested testing. In a recent report filed with the Commission however, Columbia states that it has sent a request to the Ogles' attorney asking to schedule a post-construction water test.²⁶ With regard to the alleged soil contamination, we find that Columbia's actions in removing material from the "air" pit, where excess cement slurry was circulated during cementation of the well casing, were sufficient. Per Commission staff instruction, instead of burying the material in place, Columbia removed the material, along with soils containing the material, to an approved disposal facility. In any event, residual cement slurry would be non-hazardous, as this material is approved for well casings.

The Commission orders:

The complaints dated October 11, 19, 26, and 28, November 5, 9, 12, 13, 16, 17, 18, 22, 23, 24, and 30, and December 8, 2009, the motion for oral hearing dated

²⁴ See complaints filed November 5, 13, and 18, 2009.

²⁵ See complaints filed November 9, 17, and 24, 2009.

²⁶ See *Bi-Weekly Construction Status Report*, filed February 10, 2010.

December 21, 2009, and the motion for stay dated January 4, 2010, by Charles R. Ogle and Melanie A. Ogle are denied.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.