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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE JURISDICTIONAL) CASE NO.
STATUS OF THE IRVINGTON GAS COMPANY'S) 2013-00076
UNDERGROUND PROPANE OPERATIONS)

IRVINGTON GAS COMPANY'S WITNESS AND EXHIBIT LIST

Comes now Stephen G. Hopkins, counsel for Irvington Gas Company, and pursuant to the terms of the Order entered April 25, 2014, submits the following Witness and Exhibit List.

I. WITNESSES:

1. Kerry Kasey. Mr. Kasey is a director of Irvington Gas Company (hereinafter "IGC"). Mr. Kasey is expected to testify as to all aspects of IGC's daily operations in the purchase and supply of propane gas including the purchase of propane from suppliers, the delivery to IGC's customers and invoicing of customers. He shall further testify to the number of customers receiving propane from IGC and shall describe the infrastructure associated with the delivery of propane. Mr. Kasey shall further testify to the market forces in place to control the rates of propane. He shall also describe the nature and significance of the exhibits filed herewith and existing in the record.
2. Kevin Kasey. Mr. Kasey is a director of IGC. Mr. Kasey will testify to IGC's daily operations and will compare and contrast IGC to its competitors supplying

propane gas. Mr. Kasey shall also testify to the nature and significance of the exhibits filed herewith and existing in the record.


3. Charlie Russ. Mr. Russ is the president of Kentucky Propane Gas Association. Mr. Russ shall testify to the nature of the propane industry in Kentucky and his knowledge of IGC's operations.
4. John C. O'Bryan. Mr. O'Bryan is a developer who is expected to testify to his history of dealing with IGC and having IGC supply propane via underground tank(s) to the Orchards Subdivision. He shall testify to his satisfaction and the homeowners' satisfaction with the method and quality of propane service as provided by IGC.
5. Jimmy Howard. Mr. Howard is a developer who is expected to testify to his history of dealing with IGC and having IGC supply propane via underground tank(s) to the Brightside and Cowley Crossings Subdivisions. He shall testify to his satisfaction and the homeowners' satisfaction with the method and quality of propane service as provided by IGC.
6. Bruce Beasley. Mr. Beasley is a resident of Serene Oaks Subdivision and a customer of IGC. He is expected to testify to his satisfaction with IGC's services and to the benefit of having propane supplied by underground tanks.
7. Blake Duggins. Mr. Duggins is owner of Homeplace of Kentucky. Mr. Duggins is a registered builder who is expected to testify to his history in dealing with IGC and having IGC supply propane via underground tank(s). He shall testify to his satisfaction with the method and quality of propane service as provided by IGC.
8. Tod Griffin. Mr. Griffin is a director of Midwest Propane Gas Association and is

the Executive Director of the Kentucky Propane Gas Association. Mr. Griffin shall testify to the nature of the propane industry in Kentucky and his knowledge of IGC's operations.

II. EXHIBIT LIST

1. Irvington Gas Company Safety pamphlet.
2. Irvington Gas Company sample invoice.
3. Order No. 85684 entered in Case No. 9263, Public Service Commission of Maryland.
4. Irvington Gas Company Customer Surveys.
5. Photographs (four photographs).
6. Sample Bill of Lading for supply of propane.

Respectfully submitted,



STEPHEN G. HOPKINS
BRITE & HOPKINS, PLLC.
83 BALLPARK ROAD
P.O. Box 309
Hardinsburg, Kentucky 40143
Telephone: (270) 756-2184

CERTIFICATE OF SERVICE

This is to certify that the original and ten copies of the foregoing was this 10th day of July, 2014, delivered to the following in the manner indicated below:

ORIGINAL VIA FIRST CLASS MAIL TO:

Public Service Commission
211 Sower Boulevard
Post Office Box 615
Frankfort, Kentucky 40602

COPY VIA EMAIL TO:

Hon. Virginia Gregg



STEPHEN G. HOPKINS

Now is the time to get prepared for winter! Choose a program below to protect yourself against higher winter prices!

Shield Guard Monthly Budget:

Have the same monthly bill with a guaranteed cap price per gallon. We estimate your annual usage and divide that by 12 to get you a stable payment. The current fee is \$99 annually. Shield Guard starts in July.

Budget Billing Program:

Monthly Payments from July until June. You can make monthly payments without a guarantee price by auto bank draft and paperless billing and receive a discount per gallon without an enrollment fee. Budget Billing starts in July.

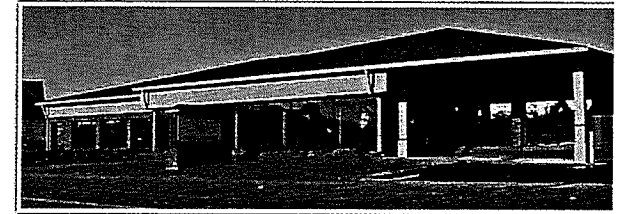
Call our office for more details and find which program best suits your needs.

**IRVINGTON GAS COMPANY
01 FIRST STREET
P.O. BOX 55
IRVINGTON, KY 40146**

IRVINGTON GAS EXHIBIT 1

FIRST CLASS MAIL
U.S. POSTAGE PAID
IRVINGTON, KY 40146
PERMIT NO. 2

Make Time for Safety



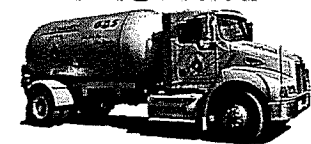
Tel: 270-547-2455

Fax: 270-547-2464

IGENERGY@BBTEL.COM

Monday-Friday

8:00-5:00 EST



Winter

IMPORTANT THINGS TO DO BEFORE A WINTER STORM

Make sure everyone in your family knows the smell of propane.

Make sure everyone knows where the propane tank is located at the house.

Make a list of instructions on how to turn off the electricity, propane, and water. Review propane safety information provided by Irvington Gas.

SHOULD YOU STAY OR GO?

When a winter storm threatens your safety, you may have to decide whether or not to leave your home. Listen to a local television or radio station for information.



IF YOU DECIDE TO STAY:

Clear snow and ice from around your propane tank. If pipes freeze and crack, gas can leak out and create a potential danger.

Clear snow and ice away from all outdoor vents, chimneys, and flues. Whenever possible, use a broom instead of a shovel so you won't damage your propane equipment.

Remember to call 811 before digging

Storm

IF YOU SMELL GAS, AT ANY TIME, INSIDE OR OUTSIDE OF YOUR HOME

NO FLAMES OR SPARKS! Immediately put out all smoking materials and other open flames. Do not operate lights, appliances, telephones, or cell phones. Flames or sparks from these sources can trigger an explosion or fire. **LEAVE THE AREA IMMEDIATELY!** Get everyone out of the building or area where you suspect gas is leaking.

SHUT OFF THE GAS. Turn off the main gas supply valve on your propane tank, if it is safe to do so. To close the valve, turn it to the right (clockwise). **REPORT THE LEAK.** From a neighbor's home or building away from the gas leak, call Irvington



Gas right away. If you can't reach Irvington Gas, call 911 or your local fire department. **DO NOT RETURN TO THE BUILDING OR AREA** until Irvington Gas, emergency responder, or a qualified service technician determines that it is safe to do so. **GET YOUR SYSTEM CHECKED.** Before you attempt to use any of your propane appliances, a service man from Irvington Gas or a qualified service technician must check your entire system to ensure that it is leak-free.

Warning

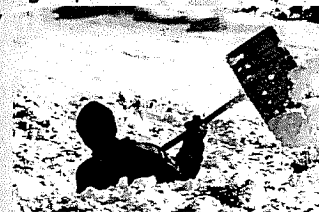
PREVENT CARBON MONOXIDE POISONING

NEVER use outdoor propane appliances in doors or in enclosed areas. This can result in carbon monoxide poisoning or death. These include outdoor portable heaters, barbecue grills, and portable generators.

NEVER use a gas oven or range-top burners to provide space heating. **NEVER** store, place, or use a propane cylinder indoors or in an enclosed area such as a basement, garage, shed, or tent.

AFTER THE STORM IS OVER

- Check for downed trees or power lines that can create safety hazards. Report any problems immediately.
- **DO NOT** enter any buildings on your property unless it is safe to do so. If it is dark, use flashlights, not candles.
- Clear heavy snow and ice from regulators, vents, piping, and valves.
- Check your propane tank, appliances, chimneys, pipes, and vent connectors. If you see any damage or blockages, call Irvington Gas.
- **DO NOT UNDER ANY CIRCUMSTANCES TRY TO MODIFY OR REPAIR VALVES, REGULATORS, OR OTHER APPLIANCE PARTS.**





IRVINGTON GAS COMPANY, INC.
 401 First Street - PO Box 55
 Irvington, KY 40146
 PH: 270/547-2455 FAX: 270/547-2464

FIRST CLASS MAIL
 U.S. POSTAGE PAID
 IRVINGTON, KY
 PERMIT NO.2

CUSTOMER NUMBER	SERVICE		DAYS USED	DATE
	FROM	TO		
FURSIM	04/24/14	05/20/14	26	05/31/14
PREVIOUS READING	CURRENT READING	CURRENT USAGE		
000345	000345	00000		

ADDRESS SERVICE REQUESTED

REMIT TO: **IRVINGTON GAS COMPANY, INC.**
 401 First Street - PO Box 55
 Irvington, KY 40146
 PH: 270/547-2455 FAX: 270/547-2464
 Hours: 8.00 A.M.-5.00 P.M. EST MONDAY-FRIDAY
 October thru April Open on SATURDAY 8.00 A.M. - 12.00 NDON

FAILURE TO RECEIVE BILL DOES NOT RELIEVE CUSTOMER'S PAYMENT OBLIGATION

RETURN THIS STUB WITH PAYMENT	
DUE DATE	CUSTOMER NUMBER
06/10/14	FURSIM

AMOUNT DUE	BY DUE DATE	AFTER DUE DATE
	10.07	11.08

CASH CHECK MONEY ORDER

SIMMONS FURNITURE
 5960 A N DIXIE HWY
 ELIZABETHTOWN KY 4270188816

GAS	9.50	
SCHOOL TAX	0.00	
SALES TAX	0.57	
PREVIOUS BALANCE	76.03	
PAYMENTS	76.03-	
OTHER CHARGES		
SYSTEM RENTAL	0.00	
Total Due	10.07	
www.irvingtongas.com		
DUE DATE	BY DUE DATE	AFTER DUE DATE
06/10/14	10.07	11.08
AMOUNT DUE		
CUSTOMER NAME	CUSTOMER ADDRESS	
SIMMONS FURNITURE	5960 A N DIXIE HWY	

Your Gas Meter

The gas meter measures your home's gas consumption. Be sure you can locate the shutoff valve at the meter. This valve should be closed only in the event of a gas emergency in your home. If you do turn off your gas meter, do not turn it back on yourself. Call your Gas Company to turn it back on.

How to Shut Off Your Gas Supply?

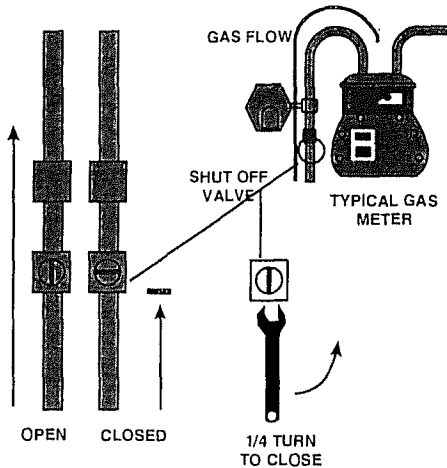
Do so **ONLY** if you notice structural damage to your house or if you smell or hear leaking gas.

The main shut-off valve is located next to your meter on the inlet pipe.

Use a crescent or pipe wrench and give the valve a quarter turn in either direction. The valve will now run crosswise on the pipe. The line is closed.

DO NOT turn on the gas again, let the gas company do this.

EXHIBIT A



IMPORTANT INFORMATION ON PROPANE SAFETY

WARNING STATEMENT: Call #811 before you DIG!

FOR YOUR SAFETY, PROPANE HAS AN ODOR ADDED SO YOU CAN DETECT LEAKS... You and each member of your family must know the smell of propane. Ask your serviceman or deliveryman to demonstrate its odor. If anyone in your household cannot smell propane, or it smells weak, call us immediately. Propane is heavier than air and will collect at floor level. Carefully smell at floor level and in low spots to check for propane.

WHAT TO DO IF YOU SMELL GAS OR SUSPECT A LEAK:

1. Put out all smoking materials and any other open flames.
2. Do not operate any appliances, switches or thermostats.
3. Get everyone outside and away from gas equipment.
4. Shut off the gas supply, using the shut-off valve at the tank or cylinder.
5. Call your propane supplier - use your neighbor's phone - if a gas smell is in the house.
6. Stay outside and leave the gas off until the leak has been found and fixed.

YOUR PROPANE SYSTEM AND APPLIANCES HAVE BUILT-IN SAFETY FEATURES... to help keep them working:

- a. Do not allow unqualified personnel to service your propane systems or appliance.
- b. Do not tamper with gas controls on appliances.
- c. Do not let your system run out of propane.
- d. Have wet or flooded appliances and controls serviced immediately.
- e. Understand that propane odor can fade or be covered up by other strong odors.
- f. Do not light pilot light in areas where there are strong odors - completely ventilate the area first.
- g. Call a qualified technician to relight pilots or carefully follow the equipment manufacturer's instructions.
- h. Repeated pilot outages could indicate a hazardous condition . . . Do not attempt to relight the pilot, call your serviceman.

ORDER NO. 85684

IN THE MATTER OF AN INVESTIGATION	*	BEFORE THE
INTO THE COMPETITIVENESS OF	*	PUBLIC SERVICE COMMISSION
CENTRALIZED PROPANE DISTRIBUTION IN	*	OF MARYLAND
MARYLAND	*	_____
	*	CASE NO. 9263
	*	_____

Issue Date: June 24, 2013

To: The Parties of Record and Interested Persons

I. BACKGROUND AND HISTORY

On February 2, 1988, the Public Service Commission of Maryland (“the Commission”) commenced its first examination regarding the feasibility of the Commission’s continued regulation over centralized propane distributors.¹ The industry alleged that it faced direct competition from unregulated business competitors who sold propane by delivering it in bottles or in trucks, which rendered continued rate regulation by the Commission unnecessary and burdensome. At the request of the central propane distribution industry,² the Commission opened proceedings and held public hearings on the issue.

After taking testimony and evidence, the Commission found that the central

¹ Case No. 8120, *In The Matter Of The Joint Application Of The Eastern Shore Gas Company And Chestertown Shorgas Company Requesting Changes In The Commission's Regulatory Oversight (Eastern Shore Gas Company)*, 79 Md. PSC 526 (1988).

² Centralized propane distribution companies” means companies that distribute propane fuel via a pipeline distribution network. The term does not include propane distributors using trucks or that distribute propane in bottles. These types of propane distributions have never been regulated by the Commission. The Commission examined the issue presented by the case in *Eastern Shore Gas Company* and this case.

propane distributors in Maryland did face sufficient competition from the non-regulated bottled propane companies, as well as companies that delivered propane by truck and, that it was justifiable to relax its oversight over centralized gas distributors' rates. The Commission decided to allow the competitive market to determine just and reasonable rates for the industry, but required that distributors continue to file tariffs with the Commission.³ In the 1990's the Commission altogether deregulated the rates charged by centralized propane distributors, but continued to enforce safety standards.⁴

Recently, the Commission received inquiries from consumers about the Commission's jurisdiction over propane distribution. Consumers have raised disputes with regard to billing and terms and conditions of service. Consumers state that, in some instances, they are living in communities that have a centralized propane pipeline system constructed as part of the development of the community ("community propane system"). In such instances there may be certain covenants, ordinances, or contracts that prevent those residents of the community from purchasing propane from any source other than the centralized propane distribution company that owns or operates the community propane system. In light of these circumstances that prohibit certain consumers from choosing their centralized propane distributors, the Commission determined it would be prudent to re-visit whether centralized propane distributors should continue to be deregulated, by initiating a proceeding in this matter.

On March 10, 2010, the Commission directed the fourteen centralized propane

³ *Id.* at 538.

⁴ *See* PUA § 11-102; COMAR 20.56.01.06 (inspection and tests); 20.56.01.07 (gas leak surveys); 20.56.02.01 (metering requirements); and 20.02.02.05 (meter tests).

distributors operating in Maryland to respond to fifteen Commission Staff (“Staff”) Data Requests, and invited interested persons to provide relevant responses.⁵ Staff received responses from the following companies: A.C. & T Company; Mid-Atlantic Cooperative Solutions, Inc. d/b/a Aero Energy (“Aero”); Boulden Propane; Cato Gas & Oil; Crisfield Housing Authority; Deep Creek Mountain Utilities (“DCMU”); Eastern Shore Gas Company (“ESG”); Peninsula Oil & Propane; Poore’s propane Gas Services; New Princess Ann Townhouses; Schagin Gas Company (“SGC”); Sharp Energy, Inc.; Thompson Gas (“Thompson”); and United Propane. Staff reviewed the companies’ responses and reported its analysis to the Commission. On August 23, 2011, the Commission conducted a legislative-type hearing in this matter, for the purpose of considering the comments filed by Staff, the Maryland Office of People’s Counsel (“OPC”), Aero, DCMU, and the Ocean City Mayor and City Counsel.⁶

II. INDUSTRY COMMENTS

A. ESG

ESG serves 10,000 customers and has franchises in the Towns of Ocean City, Ocean Pines, Berlin, Snow Hill and Pocomoke, as well as a franchise with Worcester County, Maryland.⁷ The Company competes against 17 tank propane distributors in the Company’s service area.⁸ The Company states that within the last three years, propane

⁵ The specific data requests can be found at the March 10, 2010, Notice Initiating Proceeding and Request for Data.

⁶ During the hearing testimony and comments were presented by the following participants: Steve Ashcraft, Vice President and General Manager of ESG; Randy Thompson, Chief Executive Officer of Thompson Distribution; Andy Lambert, Vice President of Operations of SCG; Michael Powell, Esq., Counsel for DCMU and Carville Collins a representative for a panel of industry representatives. Staff and OPC also participated and provided comments at the hearing.

⁷ Transcript at 7.

⁸ *Id.* at 8-9.

distributors collectively, with over 12,000 customers, had 560 consumer complaints within the last three years, which involved only 445 residential consumers. The Company insists that it has not received a complaint that was not resolved to the customer's satisfaction.⁹ ESG only has had one consumer complaint that required resolution by the Office of the Attorney General.¹⁰

Additionally, the Company provides its contact information on the back of its bills, which identifies where customers can file complaints. The back of the bill also provides the contact information for the Commission and the Office of the Attorney General, to which unresolved consumer complaints can be referred.¹¹ Most of the Company's complaints concerned customers feeling that they were over-billed.¹² A majority of those complaints came from customers who were not originally from the Eastern Shore and were first time users of propane. Those customers were not accustomed to the higher costs of propane as compared to the cost of natural gas.¹³

ESG explicitly opposes the Commission establishing a rule-making proceeding to set forth additional rules governing the industry's terms and conditions of providing service (service terminations, security deposits and applicable interest charges).¹⁴ ESG also suggested that there be only one entity that handles the industry's unresolved consumer complaints.¹⁵

⁹ *Id.* at 9 and 12.

¹⁰ *Id.* at 9.

¹¹ *Id.* at 10.

¹² *Id.* at 12.

¹³ *Id.* at 12.

¹⁴ *Id.* at 15.

¹⁵ *Id.* at 45.

B. Thompson Distribution

Mr. Thompson testified that his Company serves 1,300 customers in Carroll, Frederick, and Washington Counties.¹⁶ The Company competes against 20 or more propane distributors.¹⁷ Based upon of the number of competitors, Mr. Thompson opined the propane industry is highly competitive. The cost of the fuel itself (propane) sold through a centralized propane distribution system is the same price as if it were sold through bottles or filled into tanks.¹⁸ Although Mr. Thompson's Company provides exclusive service to certain communities, the Company tries to provide a mechanism to meet its competitors' prices by allowing its customers to choose five competitors in the customer's service area, and the Company will match the average price of those five competitors.¹⁹

Mr. Thompson made it quite clear that his company was not in favor of the Commission holding a rule-making in regards to industry standards. He felt the results of such a rule-making could cause the Commission to adopt additional requirements on the industry that would add costs to the industry's operations, which would ultimately trickle down to the customers.²⁰ He opined that the centralized propane industry would voluntarily meet any additional requirements the Commission deemed necessary, to avoid a formal rule-making.²¹

¹⁶ *Id.* at 16.

¹⁷ *Id.* at 17.

¹⁸ *Id.* at 20.

¹⁹ *Id.* at 20.

²⁰ *Id.* at 17.

²¹ *Id.* at 23.

C. SCG

Mr. Lambert testified that his company provides propane through a centralized propane distribution system, as well as selling and distributing propane by bottle and fills propane tanks.²² The central propane distribution segment of the Company is not as profitable as the Company's other business segments. Mr. Lambert explained that SCG got into the centralized propane distribution business when a developer approached the Company to install centralized propane distribution systems to the homes the developer was building.²³ The Company installed several systems, but it only provides service to 100 customers due to the housing market crash, destroying potential profits from all of the systems it had built for anticipated growth. The customers who are connected to the Company's propane systems are exclusively required by the homeowner's association agreement to use that supplier. However, the customers do have the choice of using an alternative source of energy.²⁴

According to Mr. Lambert, the Company has a minimum amount of usage-related complaints, which are usually resolved by the Company.²⁵ The Company believes that those complaints arose because customers were moving into larger homes and were unaccustomed to the cost of heating newer homes with propane.²⁶ Mr. Lambert also suggested that the Commission should limit the handling of unresolved consumer complaints to one agency, enabling that entity to "build up a history of understanding" as

²² *Id.* at 26.

²³ *Id.* at 25.

²⁴ *Id.* at 28.

²⁵ *Id.* at 27.

²⁶ *Id.* at 27.

to how the propane distribution works and to resolve complaints in an increasingly efficient manner.

D. DCMU

DCMU urged the Commission to refer unresolved consumer complaints exclusively to the Office of the Attorney General.²⁷ DCMU also noted that it would not be opposed to adding a section on its bills explaining that customers could contact the Office of the Attorney General as a way to resolve consumer complaints or billing issues.

E. Centralized Propane Industry

Mr. Collins, on behalf of a panel of industry representatives, noted that none of the parties to the proceeding were asking the Commission to oversee the pricing and rates of centralized propane distributors.²⁸ He also pointed out that he could not see any basis for OPC's recommendations that the Commission periodically review centralized propane companies pricing practices.²⁹ Mr. Collins believes that this recommendation was especially not warranted because Staff found that the industry pricing was fair and reasonable; propane was purchased from non-affiliated vendors and wholesalers with arm's length contracts; prices are set on market conditions and with only modest margins; there are safeguards in place by contract to prevent excessive pricing; and there were no instances or even allegations of restraint of trade, unfair or deceptive business practices, or anti-competitive behavior, except for two instances in a total of 3 years, which had both been resolved by the Office of the Attorney General.

²⁷ *Id.* at 45.

²⁸ *Id.* at 30.

²⁹ *Id.* at 30.

Mr. Collins also objects to OPC's recommendation that the Commission initiate a rulemaking with respect to bill format and the customer complaint process, since Staff concluded that the industry's monthly customer bills were simple and easy to read and the industry had few complaints, most of which had always seemed to get resolved in the customer's favor.³⁰ Mr. Collins pointed out that if the Commission instituted additional regulatory oversight on the centralized propane distribution industry, there would be additional costs placed on industry members, which would then have to be transferred to the customers.³¹

III. STAFF AND OPC'S COMMENTS

A. STAFF

Staff suggested that the Commission not, at the present time, regulate the price of propane, prescribe business practices, require tariff filings or otherwise resume regulatory oversight over Maryland's centralized propane distribution industry.³² Staff did, however, recommend that the Commission continue its oversight and enforcement of the industry's metering requirements, safety and reliability, and service as provided by COMAR 20.56.01. During the proceeding Staff reiterated that it did not see the need for the Commission to engage in further rulemaking regarding the centralized propane distribution industry. Staff also recommended that the Commission should not, at the present time, perform a survey concerning industry prices and operations.³³

³⁰ *Id.* at 34 and 36.

³¹ *Id.* at 37.

³² Staff Comments at 1.

³³ Transcript at 59-61.

B. OPC

OPC does not oppose continued deregulation of the industry's rates.³⁴ However, OPC did recommend that the Commission: (1) conduct an annual or bi-annual survey of the retail residential pricing practices of centralized propane distribution companies to ensure that residential customers are not subject to unreasonable pricing practices; (2) exercise regulatory authority over centralized propane distributors that provide distribution on an exclusive basis; (3) establish a rulemaking proceeding to consider establishing standard rules governing terms and conditions of services and (4) establish a protocol to resolve customer complaints with the Office of the Attorney General's Consumer Protection Division.³⁵

OPC challenged several industry and Staff recommendations. First, OPC notes that regardless of whether the parties believed that there was ample competition in the marketplace in regards to pricing, the Commission should require industry companies to complete an annual or bi-annual pricing survey.³⁶ OPC believes the survey would not pose a threat to the industry companies and would give customers a perspective and understanding of industry pricing.³⁷ OPC also concludes that the centralized propane distribution companies operate as monopolies, even though some companies tried to provide its customers with a method to match an average of competitors' prices. OPC

³⁴ OPC Comments at 4.

³⁵ *Id.* at 4 – 7.

³⁶ Transcript at 49.

³⁷ *Id.* at 49 and 50.

notes that there was a rather significant price spread between bottled propane use and centralized propane distribution.³⁸

OPC further recommends that the Commission establish a rulemaking proceeding to consider promulgating regulations for terms and conditions of the industry and clarity as to how customer complaints are to be resolved.³⁹

IV. DECISION

DCMU, the Mayor of Ocean City, Maryland, and Aero all urged the Commission to refrain from increased regulatory oversight with respect to the centralized propane distribution industry. The Mayor of Ocean City also encouraged the Commission to support his efforts to bring natural gas to Worcester County and Ocean City, Maryland.⁴⁰ As agreed by all of the parties to the proceeding, we find there is no clear need for the Commission to return to formally regulating the centralized propane industry's rates or pricing.⁴¹ Even OPC has explicitly opposed that recommendation.⁴² Furthermore, based on the record of the proceeding, we note that the Maryland centralized propane distributors continue to face sufficient competition for customers in their respective territory such that rate flexibility continues to be warranted in accord with Case No. 8120, *Eastern Shore Gas Company*, 79 Md. PSC. 526 (1988). As stated in *Eastern Shore Gas Company* and in Case No. 8106,⁴³ , if a sufficiently competitive market is demonstrated

³⁸ *Id.* at 51.

³⁹ *Id.* at 57.

⁴⁰ Ocean City Mayor and City Council Comments, p. 1.

⁴¹ Staff Comments at 1.

⁴² Comments of OPC at 4.

⁴³ *In The Matter Of The Chesapeake And Potomac Telephone Company Of Maryland's Proposal For A Regulatory Reform Trial*, 79 Md.PSC. 169 (1988).

to exist and assure just and reasonable rates, consequently we do not at this time need to re-regulate the rates and prices that the companies charge to their customers.

There are 14 centralized propane distributors who provided service to 12,414 residential and 960 commercial customers in 48 systems in Maryland.⁴⁴ Some of those distributors compete not only against other centralized propane distributors, but also against bottled propane distribution companies, companies that fill propane tanks, and companies that are able to convert homes to other energy sources.

With regard to pricing, propane is purchased from various wholesale propane suppliers using fixed contracts or on a spot basis at prices that are typically based on the Mont Belvieu Index and is delivered via truck, pipeline or rail to a regional supply depot.⁴⁵ Delivery from the regional supply depot to the centralized propane company's local community tanks is generally provided by independent haulers for which a distance based delivery charge is assessed or by trucks owned and operated by the centralized propane distributor.⁴⁶ All respondents indicated that those vendors are completely independent from the propane supplier and that contracts are negotiated on an arms-length basis.⁴⁷ Propane is then delivered in gaseous form to consumers at prices and under terms and conditions dictated by contracts with the housing developer, homeowners associations and/or end users.⁴⁸ The contracts generally include provisions that limit the price that can be charged. Such provisions generally specify that prices will

⁴⁴ Staff Comments, p. 6.

⁴⁵ Staff Comments, p. 8.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

be set on a cost plus margin basis or limit prices to those prevailing in the area for propane delivered to individual tanks.⁴⁹

We also find that at this time there is no need to convene a rulemaking proposed to govern terms and conditions of services provided by industry companies. Centralized propane suppliers serving residential customers and commercial customers maintain customer care, billing and complaint resolution operations. Through these operations, customers are informed of issues related to billing, safety, maintenance and other concerns with their propane supplier.⁵⁰ Consumers are made aware of the manner in which the price is determined for propane sold on the centralized system. In addition, centralized propane distributors provide information related to energy efficiency programs, conservation programs, bill assistance programs, and billing arrangements such as fixed bill payment plans, budget payment plans and flexible payment plans through their propane supplier.⁵¹ Centralized propane distributors also fall under the general consumer protection and safety rules.⁵² With two exceptions, there have been no allegations of restraint of trade, unfair or deceptive business practices or other anticompetitive behavior.⁵³

We agree with industry companies and Staff that unresolved customer complaints should continue to be referred to and resolved by the Consumer Protection Division of the Office of the Attorney General. That Office has over many years dealt with unresolved consumer complaints from centralized propane customers and understands the

⁴⁹ *Id.*

⁵⁰ Staff Comments, pp. 8 – 9.

⁵¹ Staff Comments, p. 9.

⁵² *Id.*

⁵³ *Id.*

industry. However, we firmly believe that the centralized propane consumer should be properly informed and made aware of the process for making consumer complaints with the applicable centralized propane distributors and/or the Consumer Protection Division of the Office of the Attorney General. As such, we order that the centralized propane distributors should provide its customers with the applicable procedures for resolving customer complaints, on at least an annual basis.

Finally, we find it prudent for the centralized propane distributors to complete a pricing survey sent out by Staff on a bi-annual basis. This will keep us informed about industry pricing trends, so that we can monitor any irregularities or whether there is an indication that consumers are being overcharged. In the past when there were instances in which the Commission granted rate flexibility to utilities, we established a mechanism to continue to monitor rates. In this order, we extend this monitoring activity to the centralized propane distributors.

IT IS THEREFORE, this 24th day of June, in the year Two Thousand Thirteen by the Public Service Commission,

ORDERED: (1) Centralized propane distribution rates at this time will continue to be deregulated by the Commission;

(2) The Commission will not convene a rule-making to govern terms and conditions of services provided by centralized propane distributors;

(3) Unresolved consumer complaints about centralized propane distributors will continue to be referred to the Consumer Protection Division of the Office of the Attorney General for resolution;

(4) Centralized propane distributors should annually in writing inform their customers about the process for making consumer complaints with the applicable distributor and/or the Consumer Protection Division of the Office of the Attorney General;

(5) Centralized propane distributors will on a bi-annual basis file a pricing survey prepared and distributed by Staff.

/s/ W. Kevin Hughes

/s/ Harold D. Williams

/s/ Lawrence Brenner

/s/ Kelly Speakes-Backman

Commissioners

1. Is this service address a residential dwelling?

Example: A residential dwelling is generally any place an individual resides, including: house, duplex, apartment, cottage, condominium, townhouse, assisted-living residence, and long term residential care facility (nursing home or rest home).

Yes

NO

No

2. Is the natural gas/propane being used solely for residential use?

Example: Residential use includes personal use or consumption of natural gas at the residence by the owner, tenants or other occupant of the residence, including uses such as heating a residence and cooking.

Yes

NO

No

3. If you answered Yes to Question 2 please describe how you use your propane, i.e., heating your home, heating water, cooking and refrigerating food, drying clothes and/or fueling gas fireplaces and barbecue grills.

4. Do you operate a business at this location or use the property for commercial or industrial use?

Example: This includes, but is not limited to, any home-based business or home office (self-employed), daycare, hair salon, catering, professional services, mechanic services, bookkeeping services or farm.

Yes

YES

No

5. Do you find the price you are paying for propane to be lower than you expected, higher than you expected, or as you expected?

IT IS HIGHER ONE MONTH OUT OF THE YEAR IN THE WINTER

ALL ABOUT KIDS
5960 B N. DIXIE HWY
ELIZABETHTOWN, KY 42701

IRVINGTON GAS EXHIBIT 4

6. Do you find your monthly billing statement from Irvington Gas to be easy to read and understand? If No please explain.

Yes

No **YES, BUT NEED LONGER TURN OVER TIME**

7. Do you believe that you have been adequately informed of billing, safety, and maintenance procedures by your propane supplier? If No please explain.

Yes

No **YES**

8. Do you believe that you have been adequately informed of the process for making consumer complaints about any aspect of your propane service? If No please explain.

Yes

No **YES**

**ALL ABOUT KIDS
5960 B N. DIXIE HWY
ELIZABETHTOWN, KY 42701**

1. Is this service address a residential dwelling?

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Yes

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Example: Residential use includes personal use or consumption of natural gas at the residence by the owner, tenants or other occupant of the residence, including uses such as heating a residence and cooking.

Yes

YES

No

3. If you answered Yes to Question 2 please describe how you use your propane, i.e., heating your home, heating water, cooking and refrigerating food, drying clothes and/or fueling gas fireplaces and barbecue grills.

HEATING THE HOME

HEATING WATER

FIREPLACES

BBQ GRILLS

4. Do you operate a business at this location or use the property for commercial or industrial use?

Example: This includes, but is not limited to, any home-based business or home office (self-employed), daycare, hair salon, catering, professional services, mechanic services, bookkeeping services or farm.

Yes

NO

No

5. Do you find the price you are paying for propane to be lower than you expected, higher than you expected, or as you expected?

AS EXPECTED

**WILLIAM RAY
51 STRIKEHOUND COURT
FISHERVILLE, KY 40023**

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Yes

YES

No

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Yes

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No

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Yes

YES

No

WILLIAM RAY
51 STRIKEHOUND COURT
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**HEATING WATER
FIREPLACES**

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NO

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AS EXPECTED

**THERESA JONES
22 W. ANJOU COURT
ELIZABETHTOWN, KY 42701**

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Yes

YES

No

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Yes

YES

No

8. Do you believe that you have been adequately informed of the process for making consumer complaints about any aspect of your propane service? If No please explain.

Yes

YES

No

**THERESA JONES
22 W. AJNOU COURT
ELIZABETHTOWN, KY 42701**

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**HEATING WATER
FIREPLACES
GRILLS**

4. Do you operate a business at this location or use the property for commercial or industrial use?

Example: This includes, but is not limited to, any home-based business or home office (self-employed), daycare, hair salon, catering, professional services, mechanic services, bookkeeping services or farm.

Yes

NO

No

5. Do you find the price you are paying for propane to be lower than you expected, higher than you expected, or as you expected?

A COUPLE OF MONTHS ITS HIGHER THAN EXPECTED

**GREG FRAZIER
131 TUSCANY LANE
VINE GROVE, KY 40175**

6. Do you find your monthly billing statement from Irvington Gas to be easy to read and understand? If No please explain.

Yes

YES

No

7. Do you believe that you have been adequately informed of billing, safety, and maintenance procedures by your propane supplier? If No please explain.

Yes

YES

No

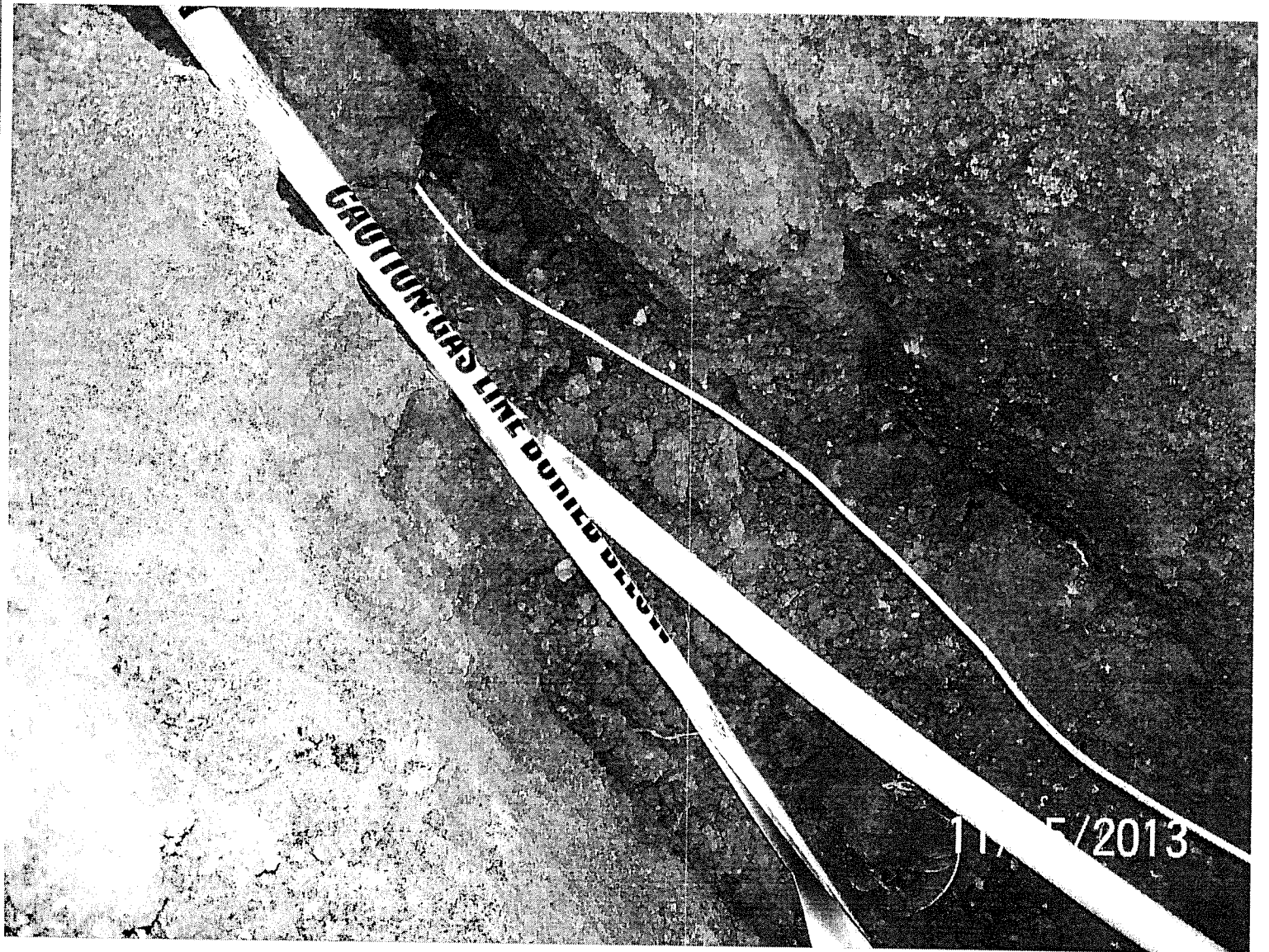
8. Do you believe that you have been adequately informed of the process for making consumer complaints about any aspect of your propane service? If No please explain.

Yes

YES

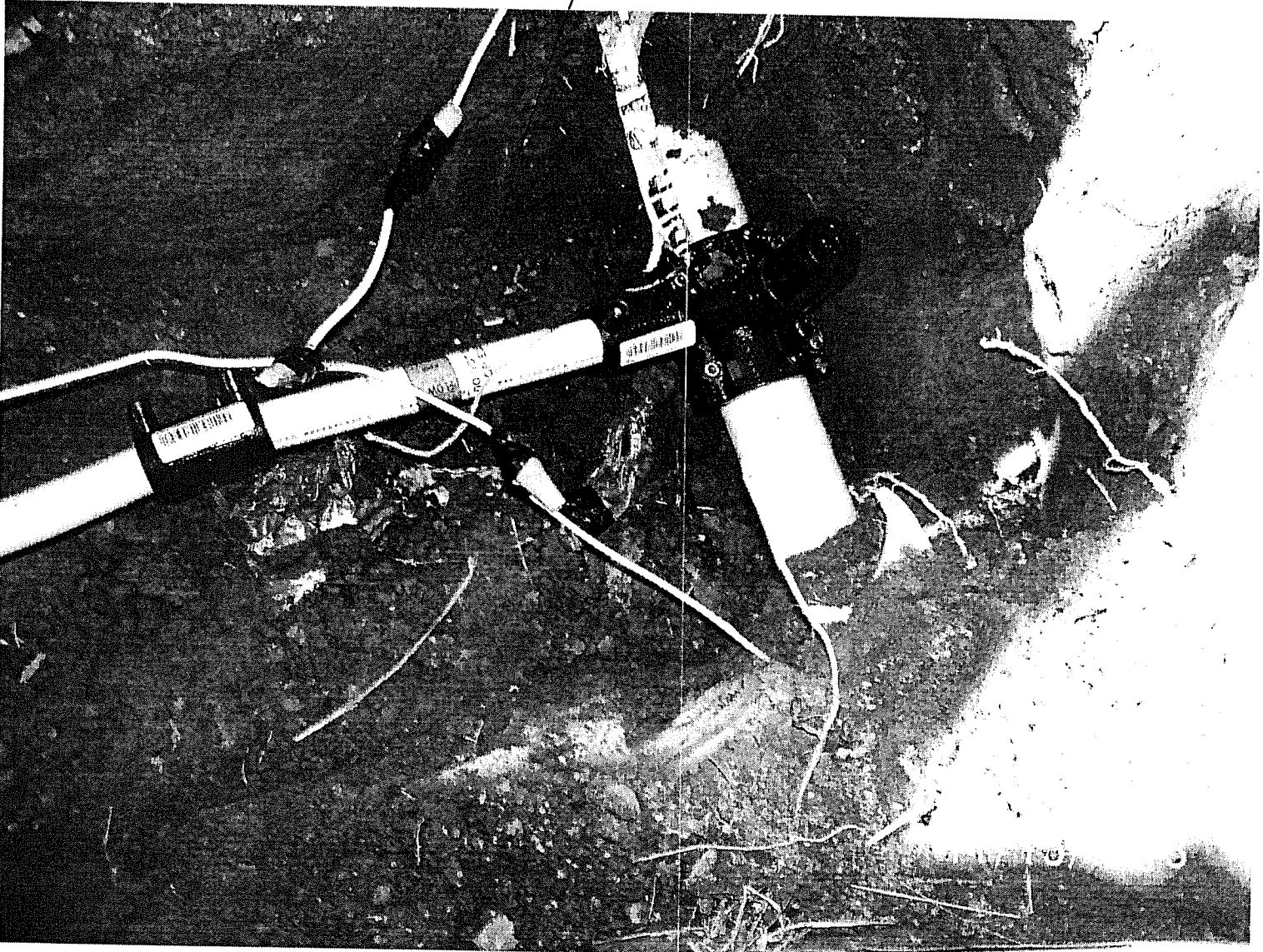
No

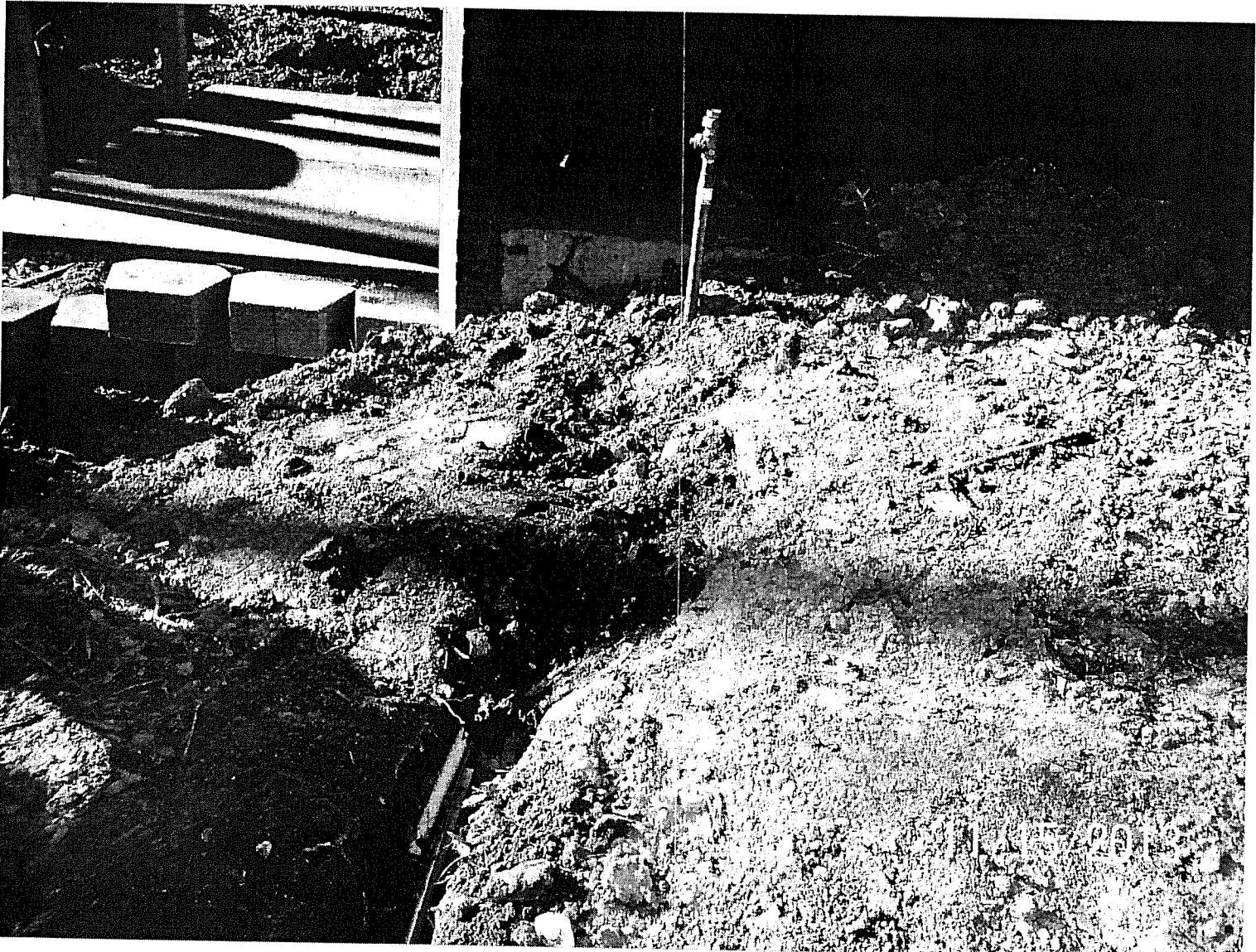
**GREG FRAZIER
131 TUSCANY LANE
VINE GROVE, KY 40175**



IRVINGTON GAS EXHIBIT 5
(4 PHOTOS)

excess
flow
valve







IRVINGTON GAS EXHIBIT 6

DATE SHIPPED 6-25-14 No. 243057

Trip# 212109

SOLD TO

Date Loaded 6/25/14

ENERGY-IRVINGTON GAS

Date Delivered 6/25/14

Pickup#

CONSIGNEE DESTINATION

IRVINGTON NY

Quantity LBS 35,900 or Gallons 8498

VARIOUS KY
2 340502 278 01

CARRIER SHIPPER FROM

CARRIER SHIPPER

PIPELINE Transport

Multiple Loading / Unloading Stops

Multiple tanks unloading

CREDIT & COLLECTIONS INSTRUCTIONS ON REVERSE SIDE

ICC OR MVFD NO. TRACTOR NO. TRAILER NO.

2 10 2 17

1 CARGO TANK
UN 1075, LIQUEFIED PETROLEUM GAS, 2.1,
(NON-CORROSIVE) NGPA-2140

STENCH ADDED 9/13 cc's SM

PRODUCT CONTAINED HEREIN ODERIZED AT
RATE OF 1.5 POUNDS OR 810 C.C. PER 10,000
GALLONS AT 60°F AND WAS LOADED FROM
TANK NUMBER 135
NET GALLONS LOADED 9038

ORDER NO. ARRIVAL IN A.M. DEPARTURE A.M.
P.M. P.M.

SEAL NUMBERS INCLUSIVE I accept the above mds. for prompt delivery
See condition below.

LOADER Jim S CARRIER'S AGENT Nyuan Shou

RECEIVED AT DESTINATION IN GOOD CONDITION SIGNATURE OF RECEIVING AGENT

TANK OPERATION NUMBER AND CODE METER READINGS FINISH

GR. GP. GROSS GALLONS LOADED TEMP. 80 CORR. FACTOR START GALLONS LOADED 60°

Comments

507-9038

Loaded 6/25/14

* Carrier certifies that the cargo tank supplied for this shipment is a proper container for the transportation of this commodity.

% End 35 %

tion Times

REASON

Propane	✓	8,502.	1.070000	9,097
Freight			.144740	1,230.
		8,502.		10,327.

17228

Due Date Invoice Total

7/10/2014 20,873.

121

TO ENSURE YOUR ACCOUNT IS PROPERLY CREDITED, INCLUDE A COPY OF ALL INVOICES WITH YOUR PAYMENT. NOTE ALL ADJUSTMENTS.

Contact Craig Smith by calling 816-842-8181 or faxing 816-842-1904.