

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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February 7, 2014

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Pa. Public Utility Commission
v.
The Columbia Water Company
Docket No. R-2013-2360798

Dear Secretary Chiavetta:

Attached for electronic filing is the Petition for Reconsideration of the Office of Consumer Advocate in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script that reads "Erin L. Gannon".

Erin L. Gannon
Assistant Consumer Advocate
PA Attorney I.D. No. 83487

Attachment

cc: Honorable Dennis J. Buckley
Office of Special Assistants at ra-OSA@pa.gov
Certificate of Service
175747.DOC

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
v.	:	Docket Nos. R-2013-2360798, <i>et al.</i>
The Columbia Water Company	:	

OFFICE OF CONSUMER ADVOCATE'S
PETITION FOR RECONSIDERATION

The Office of Consumer Advocate (OCA) hereby submits this Petition pursuant to Sections 5.572 and 5.41 of the Public Utility Commission's (Commission) regulations. See 52 Pa. Code §§ 5.572, 5.41.

I. INTRODUCTION

On January 23, 2014, the Pennsylvania Public Utility Commission (PUC or Commission) entered its Opinion and Order in the above-captioned case. In its Order, the Commission ruled on numerous issues raised by the OCA and the Bureau of Investigation and Enforcement (I&E) regarding the proposed base rate increase filed by Columbia Water Company (Columbia, CWC or Company).

The OCA seeks reconsideration of the amount of income taxes and assessments that result from the Commission's determinations regarding the allowed net operating income and rate of return. Review of Table 1 attached to the Commission's Order suggests that the income taxes and assessments may be overstated by \$90,776. The OCA seeks to ensure that the calculations are correct and the allowed revenues are consistent with the determinations made by the Commission in its Order.

As set forth in Duick v. Pennsylvania Gas and Water Co., 56 PaPUC 553 (1985), the standards for granting a petition for reconsideration are as follows:

A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was stated that “[p]arties ..., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them ...”. What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

56 PaPUC at 559 (quoting Pennsylvania R.R. Co. v. Pa. PUC, 118 Pa. Super. 380, 179 A. 850 (1935) (emphasis added).

In this Petition, the OCA raises points not previously heard or considered and which the Commission may have overlooked. The OCA seeks reconsideration of the Commission’s calculation of income taxes and assessments, consistent with its disposition of the litigated issues in this base rate proceeding. As discussed below, a “bottom-up” tax calculation based on the net operating income and expenses allowed by the Commission indicates that the income taxes and assessments in Table I should be reduced by \$90,776. The standard for reconsideration before this Commission is clearly met in this proceeding.

II. REQUEST FOR RECONSIDERATION

The Commission agreed with the ALJ that statutory federal and state income tax rates should be applied to adjustments and the allowed rate increase. Order at 91. The Commission adopted a correction to increase income tax expense due to a double counting of a deduction of taxable income related to Contributions in Aid of Construction but rejected Columbia’s argument that a correction was necessary to adjust for the effective tax rates. No other issue was litigated with regard to the tax computation.

As shown in the attached table, marked “OCA Schedule 1,” when the statutory federal and state income tax rates are applied, the OCA calculates \$463,390 in total income taxes, rather than \$552,393 as reflected in the Commission Order. Specifically, the OCA calculates total federal income taxes of \$321,833 and state income taxes of \$141,557, which are \$80,068 and \$8,935 less, respectively, than the federal and state income tax amounts of \$401,901 and \$150,492 shown on the Commission’s Table I.

This difference in income taxes also impacts the assessments amount. As shown in OCA Schedule 1, using the assessment factors that are shown on the Commission’s Table I (b) (for the PUC, OCA and OSBA Assessments¹), the OCA calculates that total assessments should be \$26,877, or \$1,773 less than the amount of \$28,650 reflected in the Commission’s Table I.

The total effect of these changes is to reduce the income taxes and assessments (and, thus, the overall revenue requirement) by \$90,776.

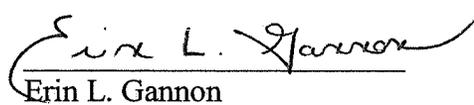
Therefore, the OCA respectfully requests that the Commission reconsider its determination of federal and state income tax expense and assessments and make it consistent with its January 23, 2014 Opinion and Order.

¹ To avoid double-recovery, the assessments expense in OCA Schedule 1 does not include an Uncollectible Accounts Factor because uncollectibles expense already appears to be included in the \$2,030,398 O&M Expenses reflected on the Commission’s Table 1.

III. CONCLUSION

WHEREFORE, for the foregoing reasons, the OCA respectfully requests that the Commission reconsider its Opinion and Order in the above-captioned proceeding as requested above.

Respectfully submitted,



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Dated: February 7, 2014
179082

Columbia Water Company
Income Tax Calculation
Using Commission-Ordered NOI and Expenses
Year Ended December 31, 2013

OCA Schedule 1
Docket No. R-2013-2360798

	Footnote		
<u>Current Income Taxes</u>	<u>Ref.</u>	<u>PA</u>	<u>Federal</u>
1 Operating Revenues		4,485,858	4,485,858
2 Operating Expenses	1	(2,009,723)	(2,009,723)
3 Depreciation Expense	2	(641,824)	(829,734)
4 Regulatory Assessments		(26,877)	(26,877)
5 Taxes Other Than Income		(134,931)	(134,931)
6 Net Operating Income Before Taxes		<u>1,672,503</u>	<u>1,484,593</u>
7 Non-Operating Income and Expenses:			
8 Merchandising Sales & Jobbing	3	5,830	5,830
9 Interest & Dividend Income		8	8
10 Non-utility		4,300	4,300
11 Misc. Non-utility Expenses		(20,119)	(20,119)
12 Interest Expense	4	<u>(245,537)</u>	<u>(245,537)</u>
13 Net Income Before Income Taxes		1,416,985	1,229,075
14 Less: Accretion of Deferred Credit	5	-	-
15 State Taxable Income		1,416,985	1,229,075
16 State Income Tax @ 9.99%		141,557	(141,557)
17 Qualified Domestic Production Adjustment			<u>(50,476)</u>
18 Federal Taxable Income			1,037,042
19 Current Federal Income Taxes @ 34%			352,594
 <u>Deferred Federal Income Taxes</u>			
20 Federal Tax Depreciation			829,734
33 Book Depreciation			<u>739,260</u>
34 Difference			90,474
34 Deferred Federal Income Taxes @ 34%			30,761
 <u>Total Income Taxes (in Rates)</u>			
35 Current Federal Income Taxes			352,594
36 Deferred Federal Income Taxes			<u>30,761</u>
37 Total Federal Income Taxes			321,833
38 State Income Taxes			<u>141,557</u>
39 Total Income Taxes			<u>\$ 463,390</u>

Revenue Calculation

40	Commission NOI		1,111,677
41	Company Expenses and Amortizations	6	2,045,437
42	Commission Adjustments		(35,714)
43	Commission Other Taxes		134,931
44	Total Expenses		<u>2,144,654</u>
45	Commission Allowed Depreciation		739,260
46	ROR + Exp + Annual Depr.		3,995,591
47	Plus Regulatory Assessments	7	26,877
48	Plus Total Income Taxes		463,390
49	Total Revenue Requirement		<u>4,485,858</u>

Assessments

50	PUC Assessment		0.00449033
51	OCA Assessment		0.00138209
52	OSBA Assessment		0.00011907
53			<u>0.00599149</u>

Footnotes

- 54 1) O&M Expenses of \$2,030,398 plus claimed amortizations of \$15,039 less Commission adjustments of \$35,714. See Table I of Order.
- 55 2) Tax depreciation deduction used to calculate current income taxes. See page 5 of GDS Rebuttal Exhibit No. 3 (Revised).
- 56 3) Company non-operating income of \$15,762 (see page 5 of GDS Rebuttal Exhibit No. 3, Revised), less \$9,932 that the Company accepted as representing operating revenues. See page 52 of Order.
- 57 4) Commission synchronized interest per Table III of Order.
- 58 5) Deduction for "Accretion of Deferred Credit" removed. This amount was removed by the Company as a revenue adjustment. See filing, 1-10. Additionally, see page 5 of GDS Rebuttal Exhibit No. 3 (Revised). The Company used this deduction to reduce book depreciation. As shown in line 3 above, tax depreciation is used in the computation of current income taxes.
- 59 6) Company O&M Expenses of \$2,030,398 plus Amortizations of \$15,039.
- 60 7) PUC, OCA and OSBA assessment factors (line 53) times Total Revenue Requirement (line 49). See Table 1 (b) of Order.

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :
v. : Docket No. R-2013-2360798
Columbia Water Company :

I hereby certify that I have this day served a true copy of the foregoing Petition for Reconsideration of the Office of Consumer Advocate upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant) and as modified by the Presiding Officer, in the manner and upon the persons listed below:

Dated this 7th day of February 2014.

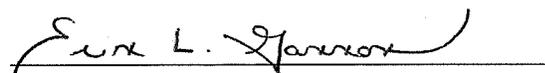
SERVICE BY EMAIL AND HAND DELIVERY

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SERVICE BY E-MAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

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