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File #: 2271/146317

June 2, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Pennsylvania Public Utility Commission, et al, v. Columbia Gas of Pennsylvania, Inc. – Docket Nos. R-2010-2215623, C-2010-2208133, C-2011-2224941, C-2011-2224944, C-2011-2225050, C-2011-2225828, C-2011-2225878, C-2011-2227004, C-2011-2227222, C-2011-2231015, C-2011-2230067

**Pennsylvania Public Utility Commission, et al, v. Columbia Gas of Pennsylvania, Inc. – Docket Nos. R-2010-2201974, C-2010-2208133, C-2010-2208503
(Consolidated)**

Dear Secretary Chiavetta:

Enclosed for filing is the Motion of Columbia Gas of Pennsylvania, Inc. for a Protective Order in the above-referenced proceeding.

Copies have been provided to the persons in the manner indicated on the certificate of service.

Respectfully Submitted,

Andrew S. Tubbs

AST/skr

Enclosures

cc: Honorable Katrina L. Dunderdale
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

Charles Daniel Shields
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P.O. Box 3265
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Harrisburg, PA 17101


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PO Box 1778
Harrisburg, PA 17105

Patrick M. Cicero
Harry S. Geller
Julie George
The Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414

Date: June 2, 2011


Andrew S. Tubbs

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | | |
|--|---|-------------|----------------|
| Pennsylvania Public Utility Commission | : | Docket Nos. | R-2010-2215623 |
| Office of Small Business Advocate | : | | C-2010-2208133 |
| Office of Consumer Advocate | : | | C-2011-2224941 |
| | : | | C-2011-2224944 |
| Complainants | : | | C-2011-2225050 |
| | : | | C-2011-2225828 |
| and | : | | C-2011-2225878 |
| | : | | C-2011-2227004 |
| Shipley Energy Company, Dominion | : | | C-2011-2227222 |
| Retail, Inc. and Interstate Gas Supply, Inc. | : | | C-2011-2231015 |
| | : | | C-2011-2230067 |
| Intervenors | : | | |
| | : | | |
| v. | : | | |
| | : | | |
| Columbia Gas of Pennsylvania, Inc. | : | | |
| | | | |
| Pennsylvania Public Utility Commission | : | Docket Nos. | R-2010-2201974 |
| Office of Small Business Advocate | : | | C-2010-2208133 |
| Office of Consumer Advocate | : | | C-2010-2208503 |
| | : | | (Consolidated) |
| | : | | |
| v. | : | | |
| | : | | |
| Columbia Gas of Pennsylvania, Inc. | : | | |

**MOTION OF COLUMBIA GAS OF PENNSYLVANIA, INC.
FOR A PROTECTIVE ORDER**

TO ADMINISTRATIVE LAW JUDGE KATRINA L. DUNDERDALE:

Columbia Gas of Pennsylvania, Inc. (“Columbia”) hereby requests that the attached Protective Order be entered in the above-captioned proceeding pursuant to the provisions of 52 Pa. Code § 5.423(a). In support thereof, Columbia represents as follows:

1. On January 14, 2011, Columbia filed with the Pennsylvania Public Utility Commission (“Commission”) Supplement No. 163 to its Tariff Gas – Pa. P.U.C. No. 9 (“Supplement No. 163” or “base rate filing”). Supplement No. 163, issued January 14, 2011 and

to be effective March 15, 2011, proposes an increase in revenues of approximately \$37.8 million, based upon data for a pro forma future test year ending September 30, 2011. The filing was made in compliance with the Commission's regulations, and contains all supporting data and testimony required to be submitted in conjunction with a tariff change seeking a general rate increase.

2. In addition, on January 20, 2011, Columbia filed a Motion to Consolidate Supplement No. 156 to Tariff Gas - Pa. P.U.C. No. 9 ("Supplement No. 156" or "BTU factor proceeding") with the base rate filing. Supplement No. 156 was filed with the Commission on September 29, 2010 at Docket No. R-2010-2201974. Columbia agreed to voluntarily extend the effective date for Supplement No. 156 to coincide with the Company's base rate filing.

3. The proceeding has been assigned to Administrative Law Judge Katrina L. Dunderdale (the "ALJ") for hearings and issuance of a Recommended Decision. On January 24, 2011, the ALJ issued an order consolidating the BTU Factor proceeding with the base rate filing.

4. As set forth above, Supplement No. 163 originally had a suspension date of March 15, 2011. However, at the request of Commission staff, Columbia voluntarily agreed to extend the suspension date until March 18, 2011 in order to give the Commission an additional public meeting date to take action. On February 14, 2011, the Company filed with the Commission Supplement No. 164 to Tariff Gas Pa. P.U.C. No. 9 ("Supplement No. 164"). Supplement No. 164, issued February 14, 2011 with an effective date of March 15, 2011, suspended the proposed rates contained in Tariff Supplement No. 163 until March 18, 2011. On March 18, 2011, Columbia filed with the Commission Supplement No. 165 to Tariff Gas Pa. P.U.C. No. 9 ("Supplement No. 165"). Supplement No. 165, issued March 18, 2011 with an effective date of March 18, 2011, suspended the proposed rates contained in Tariff Supplement No. 163 until October 18, 2011.

5. A prehearing conference was held on March 23, 2011, at which time a litigation schedule was established.

6. The Parties to this proceeding have engaged in substantial formal and informal discovery prior to the prehearing conference. The Parties will continue to engage in discovery consistent with the litigation schedule established by the ALJ.

7. Proprietary Information within the definition of 52 Pa. Code § 5.423 has been requested during the course of this proceeding, which justifies the issuance of a Protective Order. For example, Parties have sought information regarding flexed rates to customers, wage information and other information that is customarily treated as sensitive, proprietary, or confidential. Therefore, treatment of such information as set forth in the attached proposed Protective Order is justified because unrestricted disclosure of such information would not be in the public interest. These considerations constitute cause for the restrictions specified in 52 Pa. Code § 5.423 and in Administrative Law Judge or Commission Orders granting relief pursuant to said regulation.

8. Under 52 Pa. Code §§ 5.362(a)(7) and 5.423, the Office of Administrative Law Judge or the Commission may issue a Protective Order to limit or prohibit disclosure of confidential commercial information where the potential harm to a participant would be substantial and outweighs the public's interest in having access to the confidential information. In applying this standard, relevant factors to be considered include: the extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information may already be known by others; and the potential value of such information to the participant and the participant's competitors and trade partners. 52 Pa. Code §§ 5.423(a)(1) – (3).

9. Parties in this proceeding have sought specific information regarding the flexed rates that Columbia charges to certain customers under its Commission approved tariff. Releasing this information to the public could cause significant competitive harms to Columbia because other customers could use this information to bargain for lower rates. This would cause unfair economic or competitive damage to Columbia. 52 Pa. Code §§ 5.423(a)(1); 5.423(a)(3). Information regarding flexed rates is often, if not always, considered confidential information and the disclosure of such information would not be in the public interest. Parties also have requested other information in this proceeding that warrants confidential treatment.

10. The attached proposed Protective Order defines “Confidential” information in Paragraph 3 of the attached proposed Protective Order as “those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Party or its clients to risk of competitive disadvantage or other business injury.” Clearly, protecting this type of information from disclosure is appropriate.

11. Paragraph 17 of the attached proposed Protective Order protects against overly broad designations of protected information by giving all Parties the right to question or challenge the confidential or proprietary nature of the “Confidential” information.

12. Limitation on the disclosure of “Confidential” information will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding. The proposed Protective Order balances the interests of the Parties, the public, and the Commission.

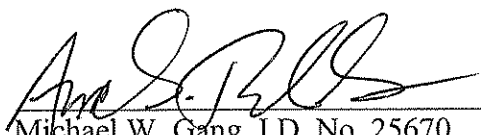
13. Columbia notes that it has entered into Stipulated Protective Agreements with all of the Parties in this proceeding, including the Office of Trial Staff (“OTS”), Office of Consumer Advocate (“OCA”), Office of Small Business Advocate (“OSBA”), Dominion Retail, Inc.,

Interstate Gas Supply, Inc. and Shipley Energy Company (“Joint Marketers”), Columbia Industrial Intervenors (“CII”), and Pennsylvania Communities Organizing for Change, Inc. (“PCOC”). The Protective Order is substantially based upon the terms and conditions contained in the Stipulated Protective Agreements, as modified slightly to clarify the sharing of Proprietary Information with and by the Commission in Paragraph 5

14. The attached proposed Protective Order will protect the confidential information while allowing the Parties to use such information for purposes of the instant litigation.

WHEREFORE, for all the foregoing reasons, Columbia Gas of Pennsylvania, Inc. requests that Administrative Law Judge Katrina L. Dunderdale grant this Motion and issue the attached Protective Order.

Respectfully submitted,



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Date: June 2, 2011

Attorneys for Columbia Gas of Pennsylvania, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | | |
|--|---|-------------|----------------|
| Pennsylvania Public Utility Commission | : | Docket Nos. | R-2010-2215623 |
| Office of Small Business Advocate | : | | C-2010-2208133 |
| Office of Consumer Advocate | : | | C-2011-2224941 |
| | : | | C-2011-2224944 |
| Complainants | : | | C-2011-2225050 |
| | : | | C-2011-2225828 |
| and | : | | C-2011-2225878 |
| | : | | C-2011-2227004 |
| Shiple Energy Company, Dominion | : | | C-2011-2227222 |
| Retail, Inc. and Interstate Gas Supply, Inc. | : | | C-2011-2231015 |
| | : | | C-2011-2230067 |
| Intervenors | : | | |
| | : | | |
| v. | : | | |
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| Columbia Gas of Pennsylvania, Inc. | : | | |
| | | | |
| Pennsylvania Public Utility Commission | : | Docket Nos. | R-2010-2201974 |
| Office of Small Business Advocate | : | | C-2010-2208133 |
| Office of Consumer Advocate | : | | C-2010-2208503 |
| | : | | (Consolidated) |
| | : | | |
| v. | : | | |
| | : | | |
| Columbia Gas of Pennsylvania, Inc. | : | | |

PROTECTIVE ORDER

Upon consideration of the Motion for a Protective Order that was filed by Columbia Gas of Pennsylvania, Inc. on June 2, 2011;

IT IS ORDERED THAT:

1. The Protective Order is hereby granted with respect to all materials and information identified in Paragraphs 2 and 3 below, which have been or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated therewith. All persons previously or hereafter granted access to the materials and information identified in Ordering Paragraphs 2 and 3 of this

Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. The materials or information subject to this Protective Order are all correspondence, documents, data, information, studies, methodologies and other materials which are believed by the producing Party to be of a proprietary or confidential nature, and which are so designated by being stamped "CONFIDENTIAL" (hereinafter referred to as "Proprietary Information"). When a statement or exhibit is identified for the record, the portions thereof that constitute Proprietary Information shall be appropriately designated as such for the record.

3. "CONFIDENTIAL" materials are those materials that the Producing party customarily treats as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Party or its clients to risk of competitive disadvantage or other business injury.

4. Proprietary Information shall be made available to counsel for the non producing Party, subject to the terms of this Protective Order. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross examination or argument in this proceeding. To the extent required for participation in this proceeding, counsel for a Party may afford access to Proprietary Information subject to the conditions set forth in this Protective Order.

5. Proprietary Information produced in this proceeding shall be made available to the Commission and its Staff. For purposes of filing, to the extent that Proprietary Information is placed in the Commission's report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information is placed in the Commission's testimony

or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Protected Information shall be permitted only in accordance with this Protective Order.

6. Proprietary Information shall be made available to a Reviewing Representative in this proceeding pursuant to the following procedures:

(a) Information deemed as "CONFIDENTIAL", shall be made available to a "Reviewing Representative" who is a person who has signed a Non-Disclosure Certificate and who is:

- (i) an attorney who has made an appearance in this proceeding for a Party;
- (ii) attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in Paragraph (i);
- (iii) an expert or an employee of an expert retained by a Party for the purpose of advising, preparing for or testifying in this proceeding;
- (iv) employees or other representatives of a Party appearing in this proceeding with significant responsibility for the docket.

7. Proprietary Information shall not be made available to a "Restricted Person." For the purpose of this Protective Order, "Restricted Person" shall mean: (a) an officer, director, stockholder, partner, owner or employee of any competitor of a Party; (b) an officer, director, stockholder, partner, owner or employee of any affiliate of a competitor of a Party (including any association of competitors of a Party); (c) an officer, director, stockholder, owner or employee of a competitor of a customer of a Party if the Proprietary Information concerns a specific, identifiable customer of a Party; and (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a customer of a Party if the Proprietary Information concerns a specific, identifiable customer of a Party; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business

would provide a significant motive for violation of the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than 1% interest in a business establishes a significant motive for violation.

8. If an expert for a Party, another member of the expert's firm or the expert's firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person, said expert must: (1) identify for the Parties each Restricted Person and each expert or consultant; (2) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical the expert shall give to the producing Party written assurances that the lack of segregation will in no way jeopardize the interests of the Parties or their customers. The producing Party retains the right to challenge the adequacy of the written assurances that the nonproducing Party or its customers' interests will not be jeopardized. To the extent that an expert serves in a capacity not identified specifically herein, but that a producing Party reasonably believes would jeopardize its interests with regard to specific and identifiable materials, the producing Party shall identify any such material to the non-producing party's counsel prior to the release of such materials. Thereafter, for purposes of such identified material only, that expert shall be considered a restricted person. Parties reserve the right to challenge any such designation. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

9. Proprietary Information shall be treated by the nonproducing Party and by the Reviewing Representative in accordance with the certificate executed pursuant to Paragraph 12(a). Information deemed Proprietary Information shall not be used except as necessary for the

conduct of this proceeding, nor shall it be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding.

10. Reviewing Representatives may not use information contained in any Proprietary Information obtained through this proceeding to give any Party or any competitor of any Party a commercial advantage. In the event that the nonproducing Party wishes to designate as a Reviewing Representative a person not described in paragraph 6 above, that Party shall seek agreement from the Party producing the Proprietary Information. If an agreement is reached, that person shall be a Reviewing Representative pursuant to Paragraph 6 above with respect to those materials. If no agreement is reached, the nonproducing Party shall submit the disputed designation to the presiding Administrative Law Judge for resolution.

11. (a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate, provided that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so. A copy of each Non-Disclosure Certificate shall be provided to counsel for the Party asserting confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative.

(b) Attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with this Protective Order.

12. A producing Party shall designate data or documents as constituting or containing Proprietary Information by stamping the documents "CONFIDENTIAL." Where only part of data compilations or multi-page documents constitute or contain Proprietary Information, the producing Party, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information. The Proprietary Information shall be served upon the nonproducing Party hereto only in an envelope separate from the nonproprietary materials, and the envelope shall be conspicuously marked "CONFIDENTIAL."

13. The nonproducing Party will consider and treat the Proprietary Information as within the exemptions from disclosure provided in the Pennsylvania Right to Know Law, Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104, effective January 1, 2009, until such time as the information is found to be non proprietary.

14. Any public reference to Proprietary Information by a Party or its Reviewing Representative shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

15. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument and responses to discovery, and including reference thereto as mentioned in Paragraph 15 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through

the agreement of the Parties or pursuant to an order of the Administrative Law Judge, the Commission or appellate court.

16. The nonproducing Party shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information. If a nonproducing Party challenges the designation of a document or information as proprietary, the Party providing the information retains the burden of demonstrating that the designation is appropriate.

17. Each Party shall retain the right to question or challenge the admissibility of Proprietary Information; to object to the production of Proprietary Information on any proper ground; to refuse to produce Proprietary Information pending the adjudication of the objection; and to seek additional measures of protection of Proprietary Information beyond those provided in this Protective Order.

17. Within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, the nonproducing Party, upon request, shall either destroy or return to the producing Party all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In the event that the nonproducing Party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies of documents and other materials containing Proprietary Information to the producing Party, the nonproducing Party shall certify in writing to the producing Party that the Proprietary Information has been destroyed.

Dated: _____

Administrative Law Judge
Katrina L. Dunderdale

APPENDIX A
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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|--|---|-------------|----------------|
| Pennsylvania Public Utility Commission | : | Docket Nos. | R-2010-2215623 |
| Office of Small Business Advocate | : | | C-2010-2208133 |
| Office of Consumer Advocate | : | | C-2011-2224941 |
| | : | | C-2011-2224944 |
| Complainants | : | | C-2011-2225050 |
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| Retail, Inc. and Interstate Gas Supply, Inc. | : | | C-2011-2231015 |
| | : | | C-2011-2230067 |
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| Columbia Gas of Pennsylvania, Inc. | : | | |
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| Office of Consumer Advocate | : | | C-2010-2208503 |
| | : | | (Consolidated) |
| | : | | |
| v. | : | | |
| | : | | |
| Columbia Gas of Pennsylvania, Inc. | : | | |

TO WHOM IT MAY CONCERN:

The undersigned is a Reviewing Representative of _____, a Party to this proceeding (“Party”), and is not, or has no knowledge or basis for believing that he/she is a “Restricted Person” as that term is defined in paragraph No. 7, pages 3 and 4 of the Protective Order executed on behalf of the Party with regard to the above-referenced proceeding. The undersigned has read and understands the Protective Order in the above-referenced proceeding, which Protective Order deals with the treatment of

Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Protective Order.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE: _____