

## Appendix F

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	Docket Nos. R-2010-2215623
	:	R-2010-2201974
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	

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STATEMENT IN SUPPORT  
OF PARTIAL SETTLEMENT ON BEHALF OF THE  
OFFICE OF CONSUMER ADVOCATE

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The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Partial Settlement (Partial Settlement), finds the terms and conditions of the Partial Settlement to be in the public interest for the following reasons:

**I. INTRODUCTION**

On January 14, 2011, Columbia Gas of Pennsylvania, Inc. (Columbia or Company) filed Supplement No. 163 to Tariff Gas - Pa. P.U.C. No. 9 (Supplement No. 163) with the Pennsylvania Public Utility Commission (Commission) to become effective on March 15, 2011. In its filing, Columbia requested that the Commission approve rates and rate changes, which would increase the rates for residential and commercial customers, while lowering rates for industrial customers. The proposed rates reflected an increase in overall annual revenues of \$37.8 million, or approximately 7.7% over the Company's annual revenues at present rates.

On February 3, 2011, the Office of Small Business Advocate (OSBA) filed a Formal Complaint, Public Statement and Notice of Appearance. On February 9, 2011, the OCA filed a Formal Complaint, Public Statement and Notice of Appearance. On February 15, 2011, Dominion Retail, Inc., Interstate Gas Supply and Shipley Energy Company (collectively NGSs) filed a Joint Petition to Intervene. On February 18, 2011, the Columbia Industrial Intervenors (CII) filed a Formal Complaint. On March 4, 2011, The Pennsylvania State University (PSU) filed a Formal Complaint. On March 17, 2011, the Office of Trial Staff (OTS) filed a Notice of Appearance. On March 22, 2011, Pennsylvania Communities Organizing for Change, Inc. d/b/a ACTION United, Nettie Pelton and Carol Collington (collectively PCOC) filed a Formal Complaint and Entry of Appearance. The following individuals filed Formal Complaints: James M. Landis; Marie A. Weaver; Margaret M. Sentz; Albert E. Jochen; Patsy Orlando; and Maureen A. Doerr Roman. Rate protests were filed by various individuals.

By Order entered March 17, 2011, the Commission suspended the implementation of Supplement No. 163 until October 18, 2011, and instituted an investigation into the lawfulness, justness and reasonableness of the rates, rules and regulations proposed in Supplement No. 163.

On September 29, 2010, prior to filing Supplement No. 163, the Company filed Supplement No. 156 to Tariff Gas – Pa. P.U.C. No. 9 (BTU Supplement No. 156) with the Commission at Docket No. R-2010-2201974 to become effective November 27, 2010. In the BTU Supplement filing, Columbia requested approval of a modification to Tariff Rule No. 15 to provide for a BTU content adjustment to the monthly determination of customers' billing MCFs in addition to existing adjustments for pressure and temperature.

By Order dated November 19, 2010, the Commission suspended the BTU Supplement filing until May 27, 2011. On December 3, 2010, Columbia filed Supplement No. 160 to Tariff

Gas – Pa. P.U.C. No. 9 (BTU Supplement No. 160) noting the effective date of May 27, 2011. Upon the unopposed motion of Columbia,<sup>1</sup> the BTU filing at Docket No. R-2010-2201974 was consolidated with the base rate filing at Docket No. R-2010-2215623.

These matters were assigned to Administrative Law Judge Katrina L. Dunderdale. A prehearing conference was held on March 23, 2011, and a litigation schedule was adopted.

On May 16, 2011, a public input hearing was convened at the Allegheny County Courthouse in Pittsburgh. Timothy Carryer, President and Chief Executive Officer of Green Over Green, testified at the public input hearing on behalf of Keystone Energy Efficiency Alliance and in opposition to the Company's proposed change to a levelized distribution charge in the residential rate design. Also, on May 16, 2011, a public input hearing was convened in Beaver Falls. No testimony was taken at this hearing.

The OCA submitted direct testimony on April 25, 2011, rebuttal testimony on May 20, 2011, surrebuttal testimony on June 1, 2011, supplemental rebuttal on June 10, 2011, as follows:

- Thomas S. Catlin – OCA Statement No. 1; OCA Statement No. 1-S;
- Ralph E. Miller – OCA Statement No. 2; OCA Statement No. 2-R; OCA Statement No. 2-S;
- Roger D. Colton – OCA Statement No. 3; OCA Statement No. 3-R; OCA Statement No. 3-SR; OCA Statement No. 3-S;
- J. Randall Woolridge – OCA Statement No. 4; OCA Statement No. 4-S;
- Glenn A. Watkins – OCA Statement No. 5; OCA Statement No. 5-R; OCA Statement No. 5-S.

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<sup>1</sup> Columbia agreed to extend the effective date of BTU Supplement 160 to coincide with the effective date of the base rate filing.

These testimonies were admitted into the record in this proceeding at hearings on June 10, 2011. By Interim Order dated June 10, 2011, the OCA's Direct Testimony submitted in the BTU proceeding was admitted into the record in this proceeding.

Pursuant to the Commission's policy of encouraging settlements that are in the public interest, the OCA, OTS, OSBA, CII, NGSs, PSU, PCOC and Columbia (Joint Petitioners) met on numerous occasions to discuss the possibility of reaching a settlement. These discussions resulted in this proposed Partial Settlement. The Joint Petitioners were able to reach a settlement on all except for two issues, which have been reserved for litigation: (1) residential rate design and (2) the CAP-Plus program. The parties submitted Main Briefs on these remaining issues on June 27, 2011. Reply Briefs are due from the parties on July 11, 2011.

## **II. DISTRIBUTION REVENUES**

The terms and conditions of the Partial Settlement are in the public interest and satisfactorily address issues raised in the OCA's analyses of Columbia's filing. The OCA submits that the Partial Settlement, taken as a whole, is a reasonable compromise in consideration of likely litigation outcomes before the Commission. Therefore, the OCA submits that the Partial Settlement is in the public interest and supports Commission approval of the Partial Settlement without modification.

While the Partial Settlement does not reach all the recommendations proposed by the OCA, the OCA recognizes that settlement is a product of compromise. The Commission encourages settlement; to do so it must recognize the balance of compromises struck by settling parties. The OCA does not address all issues addressed by the Partial Settlement in this Statement in Support; the OCA does not oppose terms and conditions not expressly addressed herein. The OCA urges the Commission to weigh the Partial Settlement as a whole. The OCA

also looks to each party to discuss how the Partial Settlement's terms and conditions address their respective issues and how those parts of the Partial Settlement support the public interest standard required for Commission approval.

**A. Revenue Requirement -- ¶ 36**

The proposed Settlement provides for an overall distribution base rate increase of \$17.0 million, about \$20.8 million less than the rate increase amount originally requested by Columbia of \$37.8 million. This rate increase reflects an increase in overall revenues of approximately 3.5%, as compared to the Company's original request of a 7.7% increase in overall revenues. These rates will go into effect once approved by the Commission.

Based on OCA's analysis of the Company's filing and discovery responses received, the rate increase under the proposed Partial Settlement represents a result that would be within the range of likely outcomes in the event of full litigation of the case. The increase is appropriate and, when accompanied by other important conditions contained in the Partial Settlement, yields a result that is just and reasonable.

**B. Tax Credit -- ¶ 37**

As part of the settlement in Columbia's 2010 base rate case at Docket No. R-2009-2159262, the Company agreed to refund to customers a \$37,487,634 tax refund, without interest, that it received due to an IRS change in tax accounting for repair deductions via a ten-year amortization. In its Supplemental Direct Testimony in this proceeding, the Company proposed to accelerate the amortization of the refund period to return the remaining un-refunded portion to customers over the next 2.25 years, without interest. The Company proposed to return the remaining un-refunded portion to customers through a tax credit rider, which would expire on its own terms. See generally CGPA St. 2-Supp. The OCA accepted the Company's proposal to

amortize the remaining portion of the tax refund over 2.25 years but opposed the use of a tax credit rider to do so because it would result in an automatic rate increase of approximately \$26.3 million when the rider expires on its own terms. See OCA St. 1-S at 9. The OCA recommended that the amortization be treated like any other amortization and included in base rates. Id.

The Partial Settlement provides for the accelerated return of the remaining un-refunded portion of the tax refund to customers over the next 2.25 years, without interest. In the Partial Settlement, the amortization is treated like other amortizations. See Partial Settlement at ¶ 38(iii). The OCA submits that this change will benefit ratepayers by accelerating the refunds they are due from this accounting change. The change to the refund of the tax credit is appropriate and, when accompanied by other important conditions contained in the Partial Settlement, yields a result that is just and reasonable.

**C. Distribution System Improvement Charge (DSIC) -- ¶ 57**

Currently, a surcharge for a natural gas utility's capital improvement projects between rate cases is not lawful. In its filing, the Company proposed to implement a Distribution System Improvement Charge (DSIC) if a statute was enacted to allow this type of surcharge recovery for natural gas utilities. As part of the proposed Settlement, Columbia will withdraw its proposed DSIC. In the Partial Settlement, Columbia reserves the right to propose a DSIC to reflect amounts not included in this base rate case should the General Assembly approve a DSIC mechanism. Also, the Company would deduct the \$11.6 million of Construction Work in Progress that is included in rate base as of the end of the future test year in this case (September 30, 2011) for projects to be completed within six months of the end of the future test year if it made such a claim.

The Company's withdrawal of this issue avoids the need to litigate this contentious issue in this proceeding. The OCA submits that the withdrawal of the DSIC proposal is reasonable and in the public interest.

### **III. RATE STRUCTURE**

#### **A. Revenue Allocation -- ¶ 41 and App. A**

The allocation of the rate increase among the customer classes was a major issue in this proceeding. The Company proposed to increase residential rates by \$30.9 million of the originally requested \$37.8 million. OCA St. 5 at 20; CGPA Exh. 103. Under the Partial Settlement, residential customers will pay \$12.7 million of the agreed upon \$17.0 million increase. See Partial Settlement at App. A. This will result in a distribution increase for residential customers of 7.75% as compared to the Company's proposed 18.91% distribution increase. OCA St. 5 at 20-21; CGPA Exh. 103. On a total operating revenue basis (including gas costs), the rate RS/RDS increase will be 3.50% instead of the 8.53% increase proposed by the Company.

The OCA disagreed with the cost allocation methodology contained in the Company's preferred customer/demand cost of service study. OCA witness Glenn A. Watkins presented an alternative study that assigned the costs of the Company's mains to the classes relative to both their peak usage and average annual usage. OCA St. 5 at 24; OCA Sch. GAW-2 at 1. The OCA proposed a class revenue allocation based primarily on its class cost of service study (CCOSS). In addition to its CCOSS, the OCA's proposed class revenue allocation recognized the need to: (1) maintain the impact of rate discounts within individual classes enjoying the discount to the extent possible; (2) consider rate gradualism by recommending that no class receive an increase greater than 150% of the system-wide percentage increase in base (non-gas) rates; and (3) avoid

any class receiving a revenue decrease. See OCA St. 5 at 23-24. In the event of a less than full \$37.8 million increase in base revenues, Mr. Watkins recommended that any reduction to Columbia's requested overall revenue requirement should be scaled-back in proportion to his recommended class revenue allocation. Id. at 26.

Based on the OCA's review of every cost of service study presented in this proceeding in conjunction with the varying revenue allocation proposals presented by the other parties, the OCA views the Partial Settlement to be within the range of reasonable outcomes from full litigation of this case. The revenue allocation under the Partial Settlement represents a compromise and falls within the litigation positions of the Joint Petitioners. The Partial Settlement does not resolve the differences of the parties as to methodology or specific cost allocation issues. Rather, the Partial Settlement sets a revenue requirement and represents an agreement on the allocation of that revenue requirement. The OCA submits that the settlement class revenue allocation is intended to reasonably move classes toward system average rate of return.

**B. DTH Billing -- ¶ 47**

In September 2010, Columbia filed BTU Supplement No. 156, proposing therein to adjust the billing quantities (MCF or CCF) for each customer to reflect the BTU content of the gas delivered to that customer. As described above, in January 2011, Columbia filed an unopposed motion to consolidate the BTU Adjustment proceeding with the present base rate case, and that motion was granted.

The OCA recommended, first, that no BTU adjustment process should be adopted outside of a base rate case. That issue became irrelevant when the BTU filing was consolidated with this base rate case. Second, the OCA recommended that the Commission reject Company's proposed

BTU adjustment process. The OCA agreed that, under the circumstances identified by the Company, it is reasonable for Columbia to measure the service it provides to its customers in terms of the BTU or energy content of the gas it delivers. The Company did not justify, however, using BTU-adjusted MCF as its billing unit. The OCA recommended that, if the Company wants to reflect energy content, it adopt the standard gas industry practice of billing customers in Dekatherms (Dth), which is a much simpler (one-step) process. The OCA also recommended that the conversion to Dth should be calculated using the most recent month's average BTU content rather than Columbia's proposal to use a six-month average of actual BTU content to adjust each month's metered MCF.

The Partial Settlement adopts both OCA recommendations. In the Partial Settlement, the Company also provides time to educate customers about the change in billing and that the Company's "price to compare" will be stated in the new billing units, consistent with the OCA's recommendation. The Partial Settlement provides, further, that the future test year volumes used to develop rates – both interim MCF-based rates and Dth-based rates – will be calculated using a heat factor of 1.073 Dth per MCF instead of the 1.097 proposed in Columbia's filing. The lower heat factor is based on the actual heat content in the historical year and means that test year volumes will be higher.

#### **IV. OTHER ISSUES**

##### **A. Senior Programs -- ¶ 48**

In its filing, Columbia proposed three new programs for seniors: (1) Flexible Payment Due Date; (2) Safe at Home; and (3) USP Rider Waiver. The proposed programs would cost approximately \$1.4 million. The Flexible Payment Due Date and Safe at Home programs were proposed to be available to all seniors regardless of income. The USP Rider Waiver program

was proposed to be available to seniors with incomes between 151% and 250% of Federal Poverty Level. The OCA raised concerns about the Company's proposed senior programs and indicated that the provision of special programs based solely on age may not be reasonable, especially since many confirmed low-income, non-CAP customers would be paying for these programs. See OCA St. 3 at 26-34. OTS recommended that the Commission reject these programs because the Company had not demonstrated a need for them. See OTS St. 4 at 9-14.

In the Partial Settlement, the Company withdraws its proposed senior programs. The OCA submits that the withdrawal of these programs is reasonable.

**B. Tariff Change – CAP Enrollment**

In its filing, the Company proposed to add a sentence to Tariff Page No. 139, which would limit the Customer Assistance Program (CAP) enrollment to 27,100. In the Partial Settlement, the Company agreed to withdraw this proposal at PCOC's request. The OCA supports the withdrawal of this language as in the public interest.

## V. CONCLUSION

The OCA submits that the terms and conditions of the proposed Partial Settlement of this rate investigation represent a fair and reasonable resolution of the issues and claims arising in this proceeding. If approved by the Commission, this agreement would provide for an increase in annual operating revenues of \$17 million with the above-stated conditions.

Respectfully submitted,



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