# Appendix E

**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**OFFICE OF TRIAL STAFF**
**STATEMENT IN SUPPORT OF**
**JOINT PETITION FOR PARTIAL SETTLEMENT**

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**TO ADMINISTRATIVE LAW JUDGE KATRINA L. DUNDERDALE:**

The Office of Trial Staff ("OTS") of the Pennsylvania Public Utility Commission, ("Commission") by and through Senior Prosecutor Charles Daniel Shields, Prosecutor Carrie Wright and Chief Prosecutor Johnnie E. Simms hereby respectfully submits that the terms and conditions of the foregoing Joint Petition for Partial Settlement ("Settlement") are in the public interest and represent a fair, just, reasonable and equitable balance of the interests of Columbia Gas of Pennsylvania., Inc. ("Columbia" or "Company") and its customers.

1. All active parties to this proceeding participated in settlement discussions and as result, Columbia, the Office of Trial Staff ("OTS"), the Office of Small Business Advocate ("OSBA"), the Office of Consumer Advocate ("OCA"), Pennsylvania State University (PSU), Columbia Industrial Intervenors (CII), Dominion Retail, Inc., Interstate Gas Supply, Shipley Energy Company, and Pennsylvania Communities Organizing for

Change d/b/a ACTION United, Nettie Pelton and Carol Collington ("PCOC") have agreed upon the terms embodied in the foregoing Settlement.

2. The Office of Trial Staff is charged with the representation of the public interest in proceedings relating to rates, rate-related services and application proceedings affecting the public interest held before the Commission. Consequently, in negotiated full or settlements, it is incumbent upon OTS to ensure that the public interest is served and to quantify to what extent amicable resolution of some or all issues raised in such proceedings will benefit the public interest. OTS has met that responsibility here and has vigorously represented the public interest at all times during this base rate case filing.

3. Prior to agreeing to the instant Settlement, OTS conducted a thorough review of the Company's filing and supporting information, discovery responses, submitted filing data and participated in the settlement discussions among the parties. The provisions of this Settlement represent a revenue increase that OTS agrees is just and reasonable and in the public interest.

4. This proceeding was initiated on January 14, 2011, when Columbia filed Supplement No. 163 to Tariff Gas-Pa. P.U.C. No. 9, containing proposed changes in rates, rules, and regulations calculated to produce approximately $37.8 million in additional annual revenues, representing an increase of 7.7% over current revenues, with a proposed effective date of March 15, 2011. At the behest of the Commission, Columbia filed Supplement No. 164 to Tariff Gas-Pa. P.U.C. No. 9 on February 14, 2011, to add an additional three (3) days to the proposed effective date, making it now March 18, 2011.

5. On March 17, 2011, OTS filed a Notice of Appearance. The Office of Consumer Advocate ("OCA") and the Office of Small Business Advocate ("OSBA") have both filed formal complaints against the proposed base rate increase. A number of other formal complaints, protests, and petitions to intervene have also been filed by customers and various gas suppliers.

6. By Order entered March 17, 2011, the Commission instituted an investigation to determine the lawfulness, justness and reasonableness of the proposed rates, rules and regulations. Pursuant to 66 Pa. C.S. §1308(d), Supplement No. 163 was suspended by operation of law until October 18, 2011, unless permitted by Commission Order to become effective at an earlier date. Said Order provided that the case be assigned to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary and culminating in the issuance of a Recommended Decision.

7. Presiding Administrative Law Judge Katrina L. Dunderdale ("ALJ Dunderdale") conducted the Prehearing Conference in this matter on March 23, 2011, with counsel for the active parties participating.

8. One of the two assigned OTS prosecutors participated in the two public input hearings held in the service territory on May 16, 2011, the first held at the Allegheny County Courthouse and the second held at the Holiday Inn in Beaver Falls.

9. Extensive and detailed written and informal discovery was conducted by a number of the active parties. The Company provided scores of interrogatory responses throughout the course of the proceeding. OTS scrutinized the provided responses in

order to develop a thorough perspective and understanding of each relevant base rate issue.

10. OTS considers Commission approval of the terms and conditions of the foregoing Settlement to have the same effect as full and complete litigation of the identified issues and further recognizes that final resolution of this proceeding by approval of the Settlement and the outcome of the issues that continue to be litigated will result in Commission-made rates.

11. OTS agrees that the terms and conditions of the Settlement are in the public interest for a number of reasons, including that the settlement:

(a) provides for a level of additional operating revenues that OTS, as one of the Joint Petitioners, agrees is reasonable and lawful;

(b) avoids the necessity of further administrative and possible appellate court proceedings, which would have been at substantial cost to the involved parties and the Company's ratepayers and thereby conserves time and expenses for all involved;

(c) provides for the withdraw of Columbia's Safe at Home Senior Program, its Senior Universal Service Program Rider Waiver, and its Senior Flexible Due Date Program. This is in the public interest because Columbia did not prove any evidence showing a financial need for these programs. Furthermore, the Company designed these senior programs using a focus group consisting only of seniors. Asking only seniors if these types of programs are needed does not qualify as adequate research into the appropriateness of such programs;

(d) provides, consistent with the OTS recommendation in this proceeding, that Columbia will withdraw the proposed Home Energy Efficiency Program ("HEEP"). This is in the public interest because the Company did not demonstrate the need for this program. Without a demonstrated need, the Company's claim for plan estimated costs of $845,421 in Year 1, and $985,856 in Year 2 to non-CAP residential customers cannot be justified;

(e) provides that Columbia will implement a two-year pilot program to evaluate all CAP customers with a CAP credit of $1,000 or more ("Maximum CAP Credit"). Columbia will evaluate each CAP customer that exceeds the Maximum CAP Credit. Columbia will then prioritize the highest use customers for the Low Income Usage Reduction Program ("LIURP"). Any customers who have received LIURP weatherization who don't fall into a control limit exception as defined in the CAP policy statement will be referred to the Remedial Energy Efficiency Program ("REEM"), and after twelve months of participation in REEM, customers who have not lowered their consumption will have their CAP payment increased. This mitigates the OTS concern about the Company's current lack of control features in their CAP program;

(f) provides that Columbia will join with OTS, OCA and/or OSBA in a request that the Commission initiate a generic investigation or rulemaking to address whether flex discounts resulting solely from competition with other NGDCs should be permitted to continue and if so under what circumstances is it appropriate. This is important because an investigation or rulemaking would help to clear up confusion in this area;

(g) reflects the recognition of both Columbia and OTS that if the Commission adopts either Columbia's proposed flat fee rate design or OTS's minimum charge rate design the Company would have a greater degree of revenue stability and that, as a result, adoption of either would require that there be a corresponding adjustment to the cost of common equity in recognition of this greater degree of revenue stability. OTS notes that the need for this type of adjustment resulting from the reduced risk inherent in these types of rate designs has already been recognized by other utility commissions when these types of rate designs providing more revenue stability have been adopted.[1]

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[1] The Ohio Public Utilities Commission addressed the issue as follows:

> Columbia is entitled to an overall rate of return of 8.12 percent. The stipulating parties agree that the corresponding return on equity is 10.39 percent. In agreeing upon this return on equity, the stipulating parties took into consideration the fact that investors may perceive Columbia to be less risky because of the alternative regulation provision included in the stipulation and because of the levelized rate design proposed by Columbia and, accordingly, reduced Columbia's return on equity by 25 basis points to reflect this reduced risk perception.
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> Ohio Order, p. 7. Case No. 08-72-GA-Air

The Maryland Public Service Commission also addressed the same type of issue regarding Potomac Electric Power Company's ("PEPCO") Bill Stabilization Adjustment ("BSA") stating, "[t]he Commission concludes that the BSA significantly lowers Pepco's financial risk, and that a

(g) contains numerous additional noteworthy provisions of particular interest to other parties to this proceeding.

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50 basis point reduction to its ROE…is appropriate." Maryland Order 83516, p. 55, Case No. 9217.

The Illinois Commerce Commission also recognized the need for this type of adjustment when adopting an 80% Straight Fixed Variable rate design for Nicor Gas. The Commission stated that "adopting this rate design will clearly reduce Nicor's risk…" Therefore, the Commission determined that it was both appropriate and necessary to reduce the return on equity by 6.5 basis points in recognition of the lowered risk. Illinois Order, p. 71, Docket No. 08-0363.

Finally, the Missouri Public Service Commission in approving Missouri Gas Energy's ("MGE") Straight Fixed Variable rate design reduced MGE's return on equity by 32.5 basis points, concluding, "Staff and MGE agree that the value of the SFV rate design is 30-35 basis points. As these suggestions are estimates, the Commission finds that the value of the SFV rate design is 32.5 points. A reduction of .325 from 10.83 results in a ROE of 10.5%." Missouri Order, Docket No. GR-2006-0422.

12. In conclusion, the Office of Trial Staff has been thoroughly involved in the instant base rate proceeding. OTS reiterates that it fully supports the Settlement as being in the public interest and respectfully requests that Administrative Law Judge Katrina L. Dunderdale recommend, and the Commission subsequently approve without modification, the settlement terms and conditions as set forth in the Joint Petition for Partial Settlement and approve the respective tariff supplements as submitted therewith.

Respectfully submitted,

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