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June 27, 2013

VIA E-MAIL AND FIRST CLASS MAIL

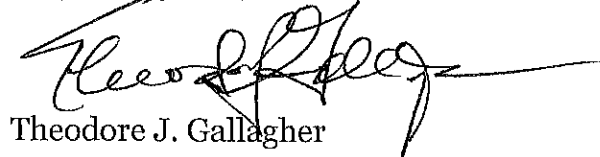
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Generic Investigation Regarding Gas on Gas Competition Between
Jurisdictional Natural Gas Distribution Companies
Docket No. P-2011-2277868 and I-2012-2320323

Dear Ms. Chiavetta:

Enclosed please find Columbia Gas of Pennsylvania, Inc. Response to The Industrial Energy Consumers of Pennsylvania (IECPA) Motion for Clarification filed June 24, 2013, in the referenced proceeding:

Very truly yours,



Theodore J. Gallagher

/kak

Enclosure

cc: Certificate of Service
Administrative Law Judge Elizabeth H. Barnes

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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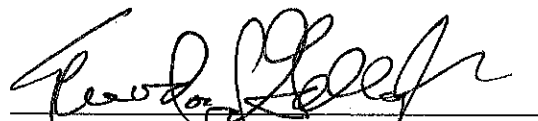
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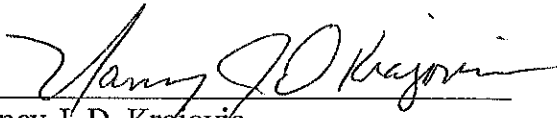
Date: 06/27/13


Theodore J. Gallagher, Esquire
*Counsel for Columbia Gas of
Pennsylvania, Inc.*

VERIFICATION

I, Nancy J. D. Krajovic, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 6-27-2013


Nancy J. D. Krajovic
Nancy J. D. Krajovic
Director, Rates & Regulatory Affairs
Columbia Gas of Pennsylvania, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition for Generic Investigation or	:	
Rulemaking Regarding "Gas-On-Gas" Competition	:	P-2011-2277868
Between Jurisdictional Natural Gas Distribution	:	
Companies	:	
	:	
Generic Investigation Regarding Gas-On-Gas	:	
Competition Between Jurisdictional Natural	:	I-2012-2320323
Gas Distribution Companies	:	

**RESPONSE OF
COLUMBIA GAS OF PENNSYLVANIA, INC.
TO MOTION OF ENERGY CONSUMERS OF PENNSYLVANIA
FOR CLARIFICATION**

TO ADMINISTRATIVE LAW JUDGE ELIZABETH H. BARNES:

Columbia Gas of Pennsylvania, Inc. ("Columbia" or "the Company"), by and through its counsel, hereby submits its response to the Motion of the Industrial Energy Consumers of Pennsylvania ("IECPA") for Clarification, submitted on June 24, 2013 ("June 24 Motion"). For the reasons stated herein, the Commission should deny the relief requested by IECPA in the June 24 Motion.

I. Background

1. On May 2, 2013, ALJ Barnes issued a Protective Order, establishing protocols for providing access to materials and information filed in this matter, produced in discovery, or otherwise presented during this proceeding.

2. Under Paragraph 4c of the Protective Order, "a Producing Party may choose to designate competitive pricing or discounting information regarding a specific customer or subgroup of customers (collectively, 'Customer-Specific Discount Information') as Highly Confidential Information to be produced for inspection only."

Inspection is limited to designated Authorized Inspecting Lawyers for each Party, after which the requesting Party may request that their experts be permitted to inspect Customer-Specific Discount Information. Footnote 2 of the Protective Order directed that “Highly Confidential Information (including Customer-Specific Discount Information ...) shall be made available for inspection in or around *either* Harrisburg or Pittsburgh, Pennsylvania.” (emphasis added)

3. On May 13, 2013, Columbia responded to Set 1 data requests that had been served by the Office of Small Business Advocate (“OSBA”). Question 2 of OSBA’s Set 1 data requests was as follows:

For each customer who is granted a distribution rate that is discounted below the cost of a regular tariff rate in order to meet competition from another Pennsylvania NGDC, please provide the following information in MS Excel electronic format:

- a. Customer ID (disguised as necessary);
- b. Customer class;
- c. Estimated annual load;
- d. Contract demand, if applicable;
- e. Discounted flex rate revenues;
- f. Full tariff revenues;
- g. Identity of competing NGDC(s).

Columbia designated its response as Highly Confidential, and noted that its response contains Customer-Specific Discount Information.

4. On May 13, Columbia also responded to IECPA’s first set of data requests, which asked Columbia to provide all of the Company’s responses and supporting material that have been or will be provided to the Office of Small Business Advocate’s Interrogatories, Set I. In its response, consistent with the Protective Order, Columbia noted that, “Access to confidential responses to OSBA’s Interrogatories, Set I will be provided to counsel for IECPA pursuant to the protective order established in this

proceeding on a mutually acceptable date at the offices of Columbia Gas of Pennsylvania, Inc., 121 Champion Way, Suite 100, Canonsburg, PA 15317.”

5. On June 17, 2013, some five weeks after Columbia indicated that it would provide access to its confidential responses to OSBA’s interrogatories, counsel for IEPCA contacted counsel for Columbia, seeking access to that information for both IEPCA counsel, and their retained expert by the end of the week (i.e., by June 21). Counsel for IECPA also indicated that: (a) they wished to conduct their inspection either in the Harrisburg area or a half-way point between Canonsburg and Harrisburg; (b) they expected to be able to take notes; and (c) they expected to review and discuss the responses without the presence of opposing counsel.

6. Counsel for Columbia responded to counsel for IECPA on June 17, 2013, and indicated that it would be amenable to meeting half-way, but expressed Columbia’s objection to the taking of notes, and the review of documents without the presence of counsel for Columbia. Counsel for Columbia also indicated that he was away from Pennsylvania for the duration of the week June 17 through 21, and requested that the review be scheduled for the following week.

7. IECPA’s June 24 Motion seeks intervention by the ALJ regarding the parameters of its access to Columbia’s Highly Confidential Information, as well as such information held by Peoples Natural Gas, LLC (“Peoples”) and Equitable Gas LCC (“Equitable”).

II. Argument

8. IECPA’s counsel and/or its expert(s) should not be permitted to take notes. In quoting from the Protective Order, IECPA notes that “Highly Confidential Information and Customer-Specific Discount Information shall be ‘produced for

inspection’ to non-statutory intervenors and experts (IECPA’s emphasis)”, and proceed to argue that inspection without note taking creates an unlevel playing field when compared to the State Advocates in this proceeding. (June 24 Motion at p. 11). Tellingly, in quoting from the Protective Order, IECPA leaves out the word “only”, in the phrase “to be produced for inspection **only**.” (Protective Order ¶ 4c; emphasis added). Columbia submits that, in context, the word “only” is a clear indication that non-statutory parties are not permitted to take notes. Permitting the taking of notes effectively nullifies the restricted access that has been afforded to the non-statutory parties by the terms of the Protective Order, as IECPA’s counsel and/or expert(s) could merely copy the information provided.

9. IECPA argues that the Companies (i.e., Columbia, Peoples, and Equitable) “have interpreted the term ‘inspect’ to mean ‘cursorily glance at thousands of data points and mentally absorb for later individual recall.” (June 24 Motion at p. 12). With respect to Columbia, this argument is premature, as counsel for IECPA has not yet reviewed Columbia’s information. It may well be that, after reviewing the information that Columbia has furnished to OSBA, counsel may not consider the data to be as overwhelming as is assumed in the June 24 Motion. Counsel for IECPA should be required to review Columbia’s data before making this argument.


10. IECPA claims to be faced with a “significant disadvantage” since Direct Testimony is due on August 8, 2013. By way of relief, IECPA suggests that each Company be required to make its information, with note taking and private discussion permitted, for two mutually agreed-upon business days per week for the remainder of the discovery period. (June 24 Motion at p. 15). In the event that note taking is not permitted, due to the upcoming deadline for Direct Testimony, IECPA seeks

“unrestricted access to the Information for inspection at any time, Monday through Friday, during normal business hours, through the remainder of the discovery period.” (June 24 Motion at p. 15). IECPA further accuses the Companies of employing “stonewalling tactics”, with the result that “only 30 business days from [June 24] remain for IECPA and its expert witness to inspect, digest, and incorporate relevant Highly Confidential Information and Customer-Specific Discount Information into its Direct Testimony.” (June 24 Motion at pp. 15-16). To say nothing of the fact that IECPA is essentially seeking to rewrite the Protective Order, IECPA’s press for time is problem of its own making. IECPA waited a full five weeks between Columbia’s May 13, 2013 indication that it would provide access to IECPA’s counsel and their June 17, 2013 request for access. They cannot now be heard to change the terms of the Protective Order.

III. Conclusion

For the reasons stated herein, Columbia Gas of Pennsylvania, Inc. respectfully requests that the Commission deny IECPA’s Motion for Clarification, filed on June 24, 2013.

Respectfully submitted,



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Date: June 27, 2013

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