



Theodore J. Gallagher
Senior Counsel
Legal Department

121 Champion Way, Suite 100
Canonsburg, PA 15317
Office: 724.416.6355
Fax: 724.416.6384
tjgallagher@nisource.com

February 25, 2014

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120

**Re: Joint Petition for Generic Investigation or Rulemaking Regarding
"Gas-On-Gas" Competition Between Jurisdictional Natural Gas
Distribution Companies; Docket No. P-2011-2277868**

**Generic Investigation Regarding "Gas-On-Gas" Competition Between
Jurisdictional Natural Gas Distribution Companies;
Docket No. 1-2012-2320323**

Dear Secretary Chiavetta:

Please find the original of Columbia Gas of Pennsylvania, Inc.'s Main Brief for filing in the above-captioned matter. Copies have been served upon all parties of record.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Theodore J. Gallagher

/kak

Enclosure

cc: Honorable Elizabeth H. Barnes (w/enc.)
Certificate of Service (w/enc.)

**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	:	

**MAIN BRIEF OF
COLUMBIA GAS OF PENNSYLVANIA, INC.**

Columbia Gas of Pennsylvania, Inc. ("Columbia" or "the Company"), by and through its counsel, pursuant to 52 Pa. Code § 5.501 and the scheduling orders issued in the captioned matters, hereby submits its Main Brief.

I. Introduction

This matter arises from a circumstance that is unique to western Pennsylvania, whereby customers who are located in service territories that are served by more than one Natural Gas Distribution Company ("NGDC") may negotiate with competing NGDCs for a rate that is discounted below the regular applicable tariff rate. This rate flexing by NGDCs solely to meet a competitive threat from another NGDC is commonly referred to as "gas-on-gas competition." The Commission currently permits an NGDC to recover the revenue shortfall associated with gas-on-gas competition from its remaining customers. This practice has been criticized by various parties over the years and has been challenged in several recent base rate proceedings. This matter was initiated as a result of settlements in such base rate proceedings, as discussed below.

Columbia wishes to stress that, whatever the fate of gas-on-gas competition, current flex contracts should be permitted to run the full course of their contract terms. Moreover, should the Commission order that the current structure of gas-on-gas competition be eliminated or amended, an NGDC that incurs any costs associated with its transition away from the current structure must be permitted to recover such costs in full. Below, Columbia will make recommendations regarding positions taken by some of the parties to this proceeding.

II. Statement of the Case

On or about December 8, 2011, Peoples Natural Gas (“Peoples”), the Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), and the Office of Small Business Advocate (“OSBA”) jointly filed a Petition for Generic Investigation or Rulemaking Regarding “Gas on Gas Competition” Between Jurisdictional Natural Gas Distribution Companies (“Joint Petition”). The Joint Petition was designated as Case No. P-2011-2277868.

The Joint Petition was filed pursuant to an approved settlement of Peoples base rate proceeding at Docket No. R-2010-2201702, whereby Peoples, BI&E, OCA, and OSBA agreed to address “gas-on-gas competition” issues by requesting that the Commission review the effect of distribution rate competition among Natural Gas Distribution Companies (“NGDCs”) on a generic basis for all NGDCs, as more fully described in paragraphs 4 through 6 of the Joint Petition.

As noted in paragraph 8c. of the Joint Petition, the Joint Petition for Partial Settlement in Columbia’s then most recent base rate proceeding at Docket No. R-2010-2215623 also addressed the issue of gas-on-gas competition, and included a similar

provision to the Peoples rate case settlement. Specifically, the Columbia partial settlement provided, in relevant part:

Columbia agrees to join with [BI&E], OCA and/or OSBA in a request that the Commission initiate a generic investigation or rulemaking to address whether flex discounts solely as a result of competition from other NGDCs should be permitted to continue and, if permitted to continue, under what circumstances it will be considered appropriate.

The Commission approved the Joint Petition for Partial Settlement by Order entered October 14, 2011. Accordingly, on March 19, 2012, Columbia filed a Petition to Intervene.

On July 25, 2012, the Commission issued a Secretarial Letter in response to the Joint Petition, opening a generic investigation at Docket No. I-2012-2320323, and assigning the matter to the Office of Administrative Law judge for disposition and resolution. At that time, the Commission invited other interested parties to intervene.

On August 9, 2012, the Commission issued a Notice of Initial Prehearing Conference to be held on August 31, 2012, and advising that Administrative Law Judge Elizabeth H. Barnes would be presiding. On August 23, 2012, ALJ Barnes issued a Prehearing Conference Order.

ALJ Barnes convened the noticed Prehearing Conference on August 31, 2012. At the Prehearing Conference, ALJ Barnes granted motions to intervene that had been filed by Columbia, The Pennsylvania State University, National Fuel Gas Distribution Corporation, The Industrial Energy Consumers of Pennsylvania, PECO Energy Company, UGI Distribution Companies, and Equitable Gas Company, LLC. ALJ Barnes also directed parties and intervenors to file formal comments regarding the scope of the

issues to be addressed in the generic proceeding as referenced in the Commission's Secretarial Letter of July 25, 2012.

On October 1, 2012, several parties submitted comments regarding the scope of the issues to be addressed in the generic proceeding, with NGDCs maintaining that the proceeding should have a narrow focus addressed in the July 24 Secretarial Letter regarding the flexing of distribution rates and the treatment of flexed revenues for ratemaking purposes in future ratemaking proceedings, while the statutory parties advocated for a broad proceeding to include all of the issues addressed in the Joint Petition. On December 11, 2012, ALJ Barnes issued an Order indicating that generic proceeding would be broad in scope, as advocated by the statutory parties.

This matter proceeded through discovery, and then the submission of written direct, rebuttal, and surrebuttal testimony by various parties. The written testimony was admitted into the record at an evidentiary hearing that took place on December 10, 2012.

III. Statement of Facts

At the core, these proceedings involve matters of policy regarding gas-on-gas competition. Thus, as one might expect, there is little dispute as to the relevant facts. OSBA witness Knecht provides a good summary of what is meant by "gas-on-gas competition." As Mr. Knecht explains:

For historical reasons, certain geographical areas in western Pennsylvania lie within the service territories of more than one [NGDC]. For many years, the Commission has permitted NGDCs (and predecessor entities) to discount or "flex" regular tariff rates to customers in these areas in response to lower price offers from another NGDC, and to recover expected revenue shortfalls associated with these customers from other

ratepayers in base rates proceedings. This practice is often referred to as “gas-on-gas competition.”

(OSBA Statement No. 1 at p. 1) This practice has become a bone of contention in various NGDC base rate cases, as evidenced by settlements in different companies’ cases whereby the parties agreed to initiate a generic proceeding to address the issue of rate flexing solely as a result of competition from other NGDCs. (See e.g., Columbia Statement No. 1R at pp. 2-3; Peoples/PTWP Statement No. 1 at pp. 5-6)

On November 14, 2013, under Docket No. A-2013-2353647, the Commission approved the acquisition of Equitable Gas Company, LLC (“Equitable”) by Peoples. (Peoples/PTWP Statement No. 1-S at p. 2) The sales of Equitable to Peoples closed on December 17, 2013, at which time Equitable was merged into Peoples with Peoples being the surviving legal entity. (Peoples/PTWP Statement No. 1-Supp.) This has been a major step in reducing gas-on-gas competition, since the combination of Peoples and Equitable has reduced the number of discounted gas-on-gas customers from 401 to 74 customers. (Columbia Statement No. 1-SR at p. 4; Peoples/PTWP Statement No. 1-S at p. 2)

IV. Summary of Argument

Below, Columbia will address recommendations made by some of the parties to this proceeding. In sum, Columbia recommends that: currently effective flex agreements should remain in effect for the duration of the contract terms; OCA’s suggested approaches to eliminating ratepayer funded gas-on-gas rate discounting should be rejected; OSBA’s suggested approaches to eliminating ratepayer funded gas-on-gas rate discounting should be modified; OSBA’s suggested “interim approach” to duplicative

facilities should be rejected; if the Commission determines that the current status quo regarding gas-on-gas competition is to be changed, the recommendation that gas-on-gas competition should continue based upon full margin, cost-based rates, is the most practical solution that has been suggested in this matter.

V. Argument

1. Currently Effective Flex Agreements Should Remain in Effect for the Duration of the Contract Terms

Both OSBA and OCA suggest that the practice of rate discounting solely as a result of competition from other NGDCs should be abolished, and that the Commission should establish a transition period under which some current flex rate agreements would be terminated prior to the end of their contract term. For example, OSBA recommends that “existing agreements with customers for gas-on-gas discount should be honored through their current expiration date or December 31, 2016, whichever is earlier.” (OSBA Statement No. 1 at p. 7) Similarly, OCA suggests that gas-on-gas competition be abolished, with a transition “period of three to five years after the issuance of a Commission Order in this case[.]” (OCA Statement No. 1 at p. 20) These recommendations should be rejected. If this Commission decides to abolish or amend gas-on-gas rate discounting, existing gas-on-gas flex contracts should be permitted to run for their full terms. As Columbia, IECPA, and Peoples/PTWP explained in testimony, flex rate customers have made operating decisions based upon current contracts with their NGDC. (Columbia Statement No. 1R at p. 4; IECPA Statement No. 1 at p. 12; Peoples/PTWP Statement No. 1 at p. 19) By the same token, NGDCs have entered into these agreements with the understanding that, if the discounting was

justified to meet competition, the resulting shortfall would be recoverable. Accordingly, equity would dictate that such customers be permitted to realize the benefit of their agreements.

Moreover, depriving flex customers of the full benefit of their bargains may not just be unfair, in the absence of a way to compensate such customers for the lost value of their contracts; a Commission-imposed sunset date could be unlawful. Ultimately, this would not be Columbia's fight but, rather, it may be an issue for an aggrieved customer or customer group to take up. However, Columbia raises the issue here for the Commission's consideration, since the prospect of protracted litigation over such an issue may not be in the interest of the Commission or the parties to this proceeding.

2. OCA's Suggested Approaches to Eliminating Ratepayer Funded Gas-on-Gas Rate Discounting Should be Rejected

OCA advocates for the elimination of gas-on-gas competition, and offers some suggested approaches to achieve that goal. Those suggested approaches should be rejected. First, OCA suggests that the Commission "create specific and exclusive services areas in Western Pennsylvania for each NGDC[.]" (OCA Statement No. 1 at p. 21) Division of service areas may not adequately take into account all relevant factors, such as the proximity of customers to a particular NGDC's facilities, and each NGDC's relative costs to serve such customers. Moreover, such divvying of territory may create stranded costs that will, of necessity, be borne by ratepayers in a particular NGDC's remaining service territory, and the rate impact could exceed the impact of covering the revenue shortfall associated with the current practice of gas-on-gas rate discounting. The fight over the choicest portions of overlapping service territories is sure to be contentious, complicated, and costly.

OCA further suggests a solution whereby multiple NGDCs operating in the same geographical area would be allowed to continue, but current and future customers would be prohibited from switching NGDCs. (OCA Statement No. 1 at p. 21) Since Columbia is legally obligated to provide service to applicants in its service territory, provided that it is economically feasible to do so, it is Columbia's position that it cannot legally be prohibited from providing service in its certificated service territories.

OCA also suggests that "true gas-on-gas competition" be permitted, whereby "each NGDC's business would be separated between captive and competitive business distribution segments", with costs allocated between them for ratemaking purposes. This suggestion would be way too complex to implement, particularly when there is a much simpler solution, as discussed below.

3. OSBA's Suggested Approaches to Eliminating Ratepayer Funded Gas-on-Gas Rate Discounting Should Be Modified

OSBA also advocates for the elimination of gas-on-gas competition, with suggested transitional approaches. For example, OSBA recommends that, upon the date that the Commission enters an order in this proceeding, "no NGDC will be permitted to offer a below regular tariff rate to any customer of another Pennsylvania NGDC." OSBA further recommends that no extensions of current gas-on-gas flex agreements be permitted upon the date the Commission enters its order in this proceeding. (OSBA Statement No. 1 at pp. 6-7). Columbia submits that, in the event that the Commission decides to abolish gas-on-gas rate discounting, the concept of a cut-off date for new and extended flex agreements is reasonable. However, the cut-off to a Commission order may be premature. A more appropriate date may be when the Commission's order is both final and non-appealable.

4. OSBA's Suggested "Interim Approach" to Duplicative Facilities Should be Rejected

OSBA has suggested an "interim approach" to the issue of duplicative facilities in overlapping service territories. Under that approach, competing NGDCs would determine whether a system expansion or major system replacement should be undertaken evaluating whether the project might be more efficiently undertaken by another NGDC. According to OSBA, this would include an "inter-NGDC consultation." (OSBA Statement No. 2 at p. 12) While Columbia has no doubt that OSBA's suggestion is well-intentioned, the prospect of NGDCs consulting with one another to decide which one will take new load is fraught with pitfalls from an anti-trust perspective, and should be rejected.

5. Gas-on-Gas Competition Based Upon Full Margin, Cost-Based Rates

As Columbia noted in testimony, it is not recommending that the Commission should change the status-quo regarding gas-on-gas competition. (Columbia Statement No. 1R at p. 7) However, if the Commission is to make changes to the current paradigm for Pennsylvania's gas-on-gas competition situation, Columbia submits that Peoples/PTWP has provided the most practical suggestion. Specifically, Peoples/PTWP suggested that gas-on-gas competition continue with NGDCs competing on their full margin, cost-based rates. (Peoples/PTWP Statement No. 1 at p. 15) As noted by Peoples/PTWP, its recommendation preserves the benefits of gas-on-gas competition while eliminating the associated revenue shortfall. (Peoples/PTWP Statement No. 1 at p. 15) The recommendation does so in a manner that is much simpler to implement, and does not suffer from the same potential legal pitfalls, as the other parties' recommendations. While Peoples/PTWP initially suggested that the Commission

establish a separate, generic proceeding to consider whether all NGDCs should be required to establish cost-based rates for all rate classes using a standard and similar cost allocation methodology (Peoples/PTWP Statement No. 1 at p. 18), that suggestion met with opposition from several parties, including Columbia. (Columbia Statement No. 1R at p. 8) In surrebuttal, Peoples/PTWP amended its recommendation whereby cost-based rates would be set in the individual rate cases of NGDCs that plan to engage in gas-on-gas competition, with the NGDC seeking Commission certification that its rates are cost based. Once competing NDGC have had their rates so certified, there would not be a need for discounting, and they would compete based upon cost-based, full margin rates. (Peoples/PTWP Statement No. 1-S at pp. 6-7) This appears to be a reasonable suggestion, so long as the Commission were to adopt Peoples/PTWP's further suggestion regarding a fair and simultaneous transition to a level competitive playing field, i.e., that current discounts should be permitted to be extended until such time as the remaining competing NGDCs have each had an opportunity in a base subsequent base rate case to have their rates certified as cost-based. (Peoples/PTWP Statement No. 1-S at p. 9).

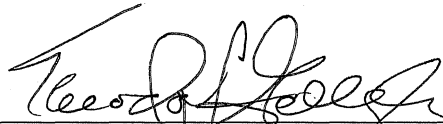
In addressing criticisms from other parties that its suggestion will produce an ultimate winner and loser which will harm noncompetitive customers of the losing NGDC, Peoples/PTWP has further suggested that once the Commission certifies that an NGDC's rates are cost-base, it should be permitted to flex down to its competitor's lowest cost-based full margin rate in order to retain load. (Peoples/PTWP Statement No. 1-S at p. 7) Again, Columbia submits that if the Commission is to change the current landscape of gas-on-gas competition, Peoples/PTWP has suggested a workable solution.

If the Commission were to adopt Peoples/PTWP's recommendations in this matter, Columbia suggests that there should be some clarification that "cost-based, full margin rate" encompasses all elements of charges, since there may be much more to customer costs than an NGDC's commodity based rate. The deciding factor on who wins and who loses among NGDCs can hinge on things that totally unrelated to the "cost of service base rates," such as monthly customer service charges, balancing service costs, applicable surcharges, or riders.

VI. Conclusion

As discussed herein, Columbia Gas of Pennsylvania, Inc. does not take a position with respect to the ultimate fate of the current practice of NDGC rate discounting solely to meet a competitive threat from another NGDC. However, should the Commission decide that the practice is to be terminated or amended, Columbia respectfully requests that the issues it has addressed in this Main Brief be given due consideration.

Respectfully submitted,



Theodore J. Gallagher, I.D. No. 90842
NiSource Corporate Services Co.
121 Champion Way, Suite 100
Canonsburg, PA 15317
Phone: 724-416-6355
Fax: 724-416-6384
E-mail: tgallagher@nisource.com

Date: February 25, 2014

*Counsel for
Columbia Gas of Pennsylvania, Inc.*

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).

VIA E-MAIL AND FIRST CLASS MAIL

Allison Kaster, Esquire
Pennsylvania Public Utility Commission
Bureau of Investigation
and Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17105
akaster@pa.gov

Aaron J. Beatty, Esquire
Darryl A. Lawrence, Esquire
Pennsylvania Public Utility Commission
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101
dlawrence@paoca.org
abeatty@paoca.org

Elizabeth Rose Triscari, Esquire
Sharon E. Webb, Esquire
Pennsylvania Public Utility Commission
Office of Small Business Advocate
300 North Second Street, Suite 1102
Harrisburg, PA 17101
etriscari@pa.gov

Teresa K. Schmittberger, Esquire
Charis Mincavage, Esquire
McNees Wallace and Nurick LLC
100 Pine Street, P.O. Box 1166
Harrisburg, PA 17108-1166
tschmittberger@mwn.com
cmincavage@mwn.com
*Counsel for Industrial Energy
Consumers of Pennsylvania (IECPA)*

Mark C. Morrow, Esquire
Melanie J. Elatieh, Esquire
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406
morrowm@ugicorp.com
elatiehm@ugicorp.com

William H. Roberts II, Esquire
Peoples Natural Gas Company LLC
375 N. Shore Drive Suite 600
Pittsburgh, PA 15212
william.h.roberts@peoples-gas.com

David P. Zambito, Esquire
Cozen O'Connor
305 North Front Street, Suite 400
Harrisburg, PA 17101
dzambito@cozen.com
*Counsel for Peoples Natural Gas
Company LLC*

Jennifer L. Petrisek, Esquire
Peoples TWP
375 North Shore Drive, Suite 600
Pittsburgh, PA 15212
jennifer.petrisek@peoples-gas.com

Maureen Geary Krowicki, Esquire
National Fuel Gas Distribution
Corporation
PO Box 2081, 1100 State Street
Erie, PA 16512
krowickim@natfuel.com

Bruce V. Miller, Esquire
Cullen and Dykman LLP
100 Quentin Roosevelt Blvd.
Garden City, NY 11530
bmiller@cullenanddykman.com
*Counsel for National Fuel Gas
Distribution Company*

Thomas J. Sniscak, Esquire
William E. Lehman, Esquire
Hawke McKeon Sniscak LLP
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17105
tjsniscak@hmslegal.com
welehman@mjslegal.com
*Counsel for The Pennsylvania State
University*

Amy Neufeld, Esquire
Exelon Business Services Company
500 North Third Street, Suite 800
Harrisburg, PA 17110
amy.neufeld@exeloncorp.com

Michael S. Swerling, Esquire
Exelon Business Services Company
2301 South Market Street, S23-1
Philadelphia, PA 19101
michael.swerling@exeloncorp.com
Counsel for PECO Energy Company

Donna M.J. Clark, Esquire
Energy Association of Pennsylvania
800 North Third Street, Suite 205
Harrisburg, PA 17101
dclark@energypa.org


Charles E. Thomas, Jr., Esquire
Thomas T. Niesen, Esquire
Thomas, Long, Niesen & Kennard
212 Locust Street
P.O. Box 9500
Harrisburg, PA 17108-9500
cthomasjr@thomaslonglaw.com
tniesen@thomaslonglaw.com
*Counsel for Equitable Gas
Company, LLC*

David W. Gray, Esquire
Equitable Gas Company, LLC
225 North Shore Drive
Pittsburgh, PA 15212
dgray@equitablegas.com

Kevin J. Moody, Esquire
Pennsylvania Independent Oil
& Gas Association
212 Locust Street, Suite 300
Harrisburg, PA 17101
kevin@pioga.org

Tishekia Williams, Esquire
Duquesne Light Company
411 Seventh Avenue, 16th Floor
Pittsburgh, PA 15219
twilliams@duqlight.com

Date: 02/25/14



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