

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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September 22, 2014

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

RE: Supplement No. 210 to Tariff Gas Pa.
P.U.C. No. 9 of Columbia Gas of
Pennsylvania, Inc.
Docket No. R-2014-2407345

Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Reply Exceptions in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Candis A. Tunilo".

Candis A. Tunilo
Assistant Consumer Advocate
PA Attorney I.D. # 89891

Enclosures

cc: Honorable Mark M. Hoyer
OSA (ra-OSA@pa.gov)
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2014-2407345
 :
 Columbia Gas of Pennsylvania, Inc. :
 :

REPLY EXCEPTIONS
OF THE OFFICE OF CONSUMER ADVOCATE

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Dated: September 22, 2014

I. INTRODUCTION

On August 22, 2014, the Office of Administrative Law Judge issued the Recommended Decision (R.D.) of Administrative Law Judge (ALJ) Mark A. Hoyer. Exceptions were filed to the R.D. on September 11, 2014 by the Office of Consumer Advocate (OCA) and Columbia Gas of Pennsylvania, Inc. (Columbia or Company). The OCA files these Reply Exceptions to address Columbia's Exceptions to the Recommended Decision. Specifically, the OCA replies to the Company's exception to the ALJ's recommendation requiring developers of residential properties (hereinafter referred to as bona fide developers) to place a note on any final subdivision plan approved and recorded in the Recorder of Deeds of the Court of Common Pleas where the property is located. The OCA has provided extensive discussion on the issues with bona fide developers being eligible to participate in the Rider NAS pilot program in its Main Brief and Reply Brief in this proceeding. The OCA submits that the ALJ's recommendation to require bona fide developers to place a note on subdivision plan filings should be adopted if this Commission determines that bona fide developers are eligible to participate in the Rider NAS pilot program.

II. REPLY EXCEPTIONS

Reply to Columbia Exception No. 1:

The ALJ Was Correct In Recommending That Bona Fide Developers Participating in the Rider NAS Pilot Program Be Required To Place A Note On Any Final Subdivision Plan. (Columbia Exceptions at 5-6; R.D. at 71-72; OCA M.B. at 25-27; OCA R.B. at 14-15).

In the Recommended Decision, the ALJ found that allowing bona fide developers to participate in the Rider NAS pilot program without requirements to disclose to potential homebuyers that homebuyers will be required to pay the Rider NAS surcharge upon turning on natural gas service to the home is not in the public interest. The ALJ found that without notice to

the potential homebuyer, the bona fide developer is under no obligation to make the potential homebuyer aware of the Rider NAS surcharge, which could result in the homebuyer being confused, surprised and angry when the homebuyer turns on his or her service with Columbia.

Specifically, the ALJ stated as follows:

A developer could conceal or fail to disclose the fact that it is participating in the Pilot Rider NAS program to an unsuspecting homebuyer. The homebuyer may agree to a price for the home relying on the assumption that natural gas service will be available and that the cost of the infrastructure necessary for delivering the gas has been factored into the purchase price. A homebuyer who, after closing on the home, calls Columbia and is made aware for the first time that he must agree to a surcharge as high as \$35.00 per month for 20 years would more than likely be confused, surprised and angry.

R.D. at 71. As such, the ALJ recommended:

In order to participate in the Pilot Rider NAS program, bona fide developers should be required to place a note on any final subdivision plan approved and recorded in the Recorder of Deeds of the Court of Common Pleas where the property is situate stating that the residential lots in [the proposed development specifically identified] that have gas meters can only receive natural gas utility service from Columbia if the lot owner agrees to pay a monthly Pilot Rider NAS surcharge [Supplement No. 210 to Tariff Gas PA. P.U.C. No. 9] not to exceed \$35.00 for a period of 20 years. Lenders and homebuyers would then be able to review the subdivision plan and obtain the information needed to make an informed decision regarding purchase.

R.D. at 71-72, 89. The ALJ also recommended that bona fide developers also be required to have homebuyers sign a form before the sale that provides detailed information regarding the Rider NAS surcharge, which would then have to be returned to Columbia before Columbia could add the surcharge to the homebuyer's monthly bill. R.D. at 72.

In its Exceptions, the Company states that it does not oppose the ALJ's recommendation that bona fide developers be required to have homeowners sign a form disclosing the Rider NAS surcharge. Columbia Exc. at 5. The Company, however, asserted that the ALJ's recommendation requiring bona fide developers to place a note on any final subdivision plan should be rejected because it creates a "timing issue" for

developers. Columbia Exc. at 6. Columbia argued that the requirement to have bona fide developers place a note on their final subdivision plan could result in bona fide developers choosing not to participate in the Rider NAS program because they may not want to resubmit their plans and seek approval from the local municipality in order to add the note to the final plan. Columbia Exc. at 6.

The OCA submits that the ALJ's recommendation should be adopted as it is a reasonable and necessary consumer protection. As discussed in the OCA's Main Brief, and recognized by the ALJ, Columbia's Rider NAS pilot program does not require bona fide developers to notify homebuyers that they will be responsible for the Rider NAS surcharge, yet homebuyers must consent to payment of the surcharge when they call Columbia to turn on natural gas service before the Company will do so. OCA M.B. at 26-27. The ALJ's recommendation to require bona fide developers to place a note on their final subdivision plans provides notice to potential homebuyers that properties located in that development are required to pay an additional monthly surcharge to Columbia. Such a note on the final subdivision plan will provide early notice to a potential homebuyer. Early notice will allow potential homebuyers to determine whether they are interested in purchasing a home with such a surcharge, will allow them to negotiate price knowing all the costs associated with the home, and will provide them with the opportunity to determine how they want to handle the surcharge (i.e. pay it monthly or pay-off the principal at time of purchase). Columbia's argument that only the ALJ's requirement to have homebuyers sign a form prior to the sale should be adopted fails to consider the need for an early notice so homebuyers can make an informed

decision. The ALJ's additional recommendation for a note on the final subdivision plan provides this early notice.

The OCA also submits that the Company's exception to the ALJ's recommendation should be denied because the Company's conclusion that requiring bona fide developers to place a note on their plans will limit the number of developers that participate in the pilot program is premature. The Company has provided no basis for reaching this conclusion. The OCA asserts that it is just as likely that if a bona fide developer determines that Rider NAS will make a residential development more marketable to homebuyers, that the developer will participate in this program even if they have to include the note. The OCA notes that Columbia's Exception gives no description of the potential added costs or time that a bona fide developer would face, and thus no weight should be given to Columbia's argument that this additional requirement will limit developers from participating. The OCA submits that adopting the ALJ's recommendation for the *pilot program* will provide the Company with data in which to determine whether this requirement has limited developer participation. If it is determined during this pilot program period that it has, Columbia can seek to have this requirement removed when requesting to make Rider NAS a permanent program.

The OCA submits that for the reasons discussed above, the ALJ's recommendation requiring bona fide developers to place a note on their final subdivision plans in order to participate in the Rider NAS pilot program should be adopted. As such, the OCA respectfully requests that the Commission deny Columbia's Exception.

III. CONCLUSION

As set forth above, the OCA submits that Columbia's Exceptions to the ALJ's Recommended Decision should be denied.

Respectfully Submitted,



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September 22, 2014
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CERTIFICATE OF SERVICE

Re: Supplement No. 210 to Tariff Gas Pa. P.U.C. No. 9 of Columbia Gas of Pennsylvania, Inc.
Docket No. R-2014-2407345

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Reply Exceptions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 22nd day of September 2014.

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