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February 6, 2015

VIA ELECTRONIC MAIL

Honorable Susan D. Colwell
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17101

RE: Columbia Water Company; Docket No. R-2014-2445660, et al.; **PREHEARING
CONFERENCE MEMORANDUM OF THE COLUMBIA WATER COMPANY**

Dear Judge Colwell:

Enclosed is a copy of the Prehearing Conference Memorandum of the Columbia Water Company in the above-captioned matter. The original of this document has been filed with the Secretary's Office and copies have been served in accordance with the attached Certificate of Service.

If you have any questions regarding this filing, please do not hesitate to contact me.

Very truly yours,

Thomas J. Sniscak
William E. Lehman

Counsel to the Columbia Water Company

TJS/WEL/das
Enclosure

cc: Rosemary Chiavetta, Secretary
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2014-2445660
	:	
The Columbia Water Company	:	
	:	
Vincent E. Collier, III	:	
	:	
v.	:	Docket No. C-2014-2451639
	:	
The Columbia Water Company	:	
	:	
Sandra Shaub	:	
	:	
v.	:	Docket No. C-2014-2452858
	:	
The Columbia Water Company	:	
	:	
Office of Consumer Advocate	:	
	:	
v.	:	Docket No. C-2014-2452991
	:	
The Columbia Water Company	:	

**PREHEARING CONFERENCE MEMORANDUM OF
THE COLUMBIA WATER COMPANY**

TO: THE HONORABLE SUSAN D. COLWELL

On September 30, 2014, The Columbia Water Company (Columbia), filed Supplement No. 68 to Tariff Water-Pa. P.U.C. No. 7 and supporting data establishing a PENNVEST surcharge for its Columbia Division pursuant to 52 Pa Code §§ 69.361 et. seq. and 66 Pa. C.S. § 1307(a) to provide for repayment of a \$15.25 million loan (No. 80180) (PENNVEST LOAN). The surcharge recovers principal and interest only for the PENNVEST Loan to upgrade the

Walnut Street Water Treatment Plant and related facilities in the Borough of Columbia, Lancaster County.

On November 5, 2014, and November 13, 2014, formal consumer complaints were filed by Vincent E. Collier III and Sandra Shaub, respectively docketed at C-2014-2451639 and C-2014-2452858. On November 13, 2014, the Office of Consumer Advocate (OCA) filed a formal complaint also protesting the surcharge.

On October 6, 2014, Columbia filed sworn answers in response to the Pennsylvania Public Utility Commission's ("Commission") investigative data requests and on November 6, 2014 filed additional answers to follow-up questions from the Commission. Copies of these answers were served on the OCA.

On December 4, 2014, after reviewing the filing and discovery propounded by the Commission's staff, the Commission approved the surcharge amount, as requested, to go into effect on January 1, 2015 subject to resolution of the Formal Complaints and subject to any refunds or adjustments resulting from any these complaints.

By Order dated January 26, 2015, a prehearing conference was scheduled for February 9, 2015 before Administrative Law Judge Susan D. Colwell. This prehearing memorandum is being served in anticipation of this conference.

a. Acceptance of Service

Service of paper documents in this proceeding shall be accepted on behalf of Columbia by:

Thomas J. Sniscak, Esquire
William E. Lehman, Esquire
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Counsel for Columbia also requests that any electronic service list utilized by the parties in this proceeding include Thomas J. Sniscak (tjsniscak@hmslegal.com) and William E. Lehman (welehman@hmslegal.com). Columbia is willing to extend the same courtesy upon request of any other party for any e-mails or electronic service to the parties.

b. Settlement

The Parties will not be utilizing the Commission's mediation process; however, Columbia will actively seek to participate in settlement discussions with the other parties.

c. Discovery

Columbia has responded to discovery requests received from Commission staff. Columbia will work with the parties to develop a final discovery schedule.

d. Other Proposed Discovery Orders

Due to time constraints in this proceeding, Columbia proposes modifications to the Commission's normal discovery timelines. The Company also proposes the parties agree to accept service of all documents by email as satisfying in-hand delivery provided a hard copy is sent the following day by US Mail.

Discovery Modifications:

- A. Answers to interrogatories shall be served in-hand within best efforts for seven (7) calendar days and no later than ten (10) calendar days unless otherwise agreed to by the parties. Interrogatories served on a Friday or the day before a Commission holiday shall be deemed served on the next business day.
- B. Objections to interrogatories to be communicated orally within three (3) calendar days of service; unresolved objections shall be served to the ALJ in writing within five (5) calendar days of service of interrogatories.
- C. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
- E. Rulings over such motions shall be issued, if possible within seven (7) calendar days of the filing of the motion.
- F. Responses to requests for document production, entry for inspection, or other purposes to be served in-hand within ten (10) calendar days.
- G. Requests for admission to be deemed admitted unless answered within seven (7) calendar days or objected to within five (five) calendar days of service.

e. Service of Documents

Columbia proposes that all due dates for any documents in this proceeding are in-hand the day they are due. Service of documents by email by 4:30 p.m on the due date will be considered in-hand provided a hard copy is sent the next day by First Class US Mail.

f. Witnesses

Columbia may present testimony from the following persons as witnesses in this proceeding:

Gary Shambaugh, Principal and Director
AUS Consultants
275 Grandview Avenue, Suite 100
Camp Hill, PA 17011
(717) 763-9890

gshambaugh@ausconsultants.com

Mr. Shambaugh will testify about the background and development of Columbia's PENNVEST surcharge. He will address the reasons and calculations supporting the requested revenue increase.

David T. Lewis, P.E.
Vice President and General Manager
Columbia Water Company
220 Locust Street
P.O. Box 350
Columbia, PA 17512
(717) 684-2188
dlewis@pa.net

Mr. Lewis will testify about the facilities that were constructed, financed and placed into service by the PENNVEST loan. The testimony on this issue will include, but is not limited to, the fact that the project was necessitated by the Department of Environmental Protection's (DEP) environmental and operational standards that is required to provide service to its customers; it was reviewed and approved by DEP as a qualifying project in the PennVest approval and loan process, and the PennVest borrowing has already received Commission security certificate approval at Docket No. S-2012-2287416.

Columbia requests that all discovery questions and answers also be served on Mr. Lewis and Mr. Shambaugh. Columbia is willing to extend the same courtesy upon request of other parties to this proceeding.

Columbia reserves the right to adopt any testimony of other witnesses, in whole or in part, and to offer additional witnesses and exhibits as may be necessary to address the testimony, exhibits, or evidence that may be presented by any party in this proceeding.

g. Issues and Sub-Issues

As stated in the Commission's December 4, 2014 Order, the Commission, after review of the supporting data and information provided in responses to data requests, has found that this information is in conformance with the Commission's Statement of Policy, PENNVEST Loan Obligations for Water and Sewer Companies, at 52 Pa. Code §§ 69.361 et. seq. and 66 Pa. C.S. § 1307 (a) and allowed the debt service only surcharge become effective.

Nonetheless, Columbia intends to address issues involving: (1) the reasonableness of the surcharge and its conformance to the Commission's policy statement; (2) the allocation of the surcharge among the various customer classes; and (3) the facilities that were financed by the requested PennVest surcharge. In addition, the Company will be filing a deferral petition with the Commission to defer the costs associated with this filing and litigation caused by the OCA and individual complaints.

Columbia reserves the right to present additional testimony and exhibits on any other issues that may arise during the course of this proceeding.

h. Evidence

Columbia reserves the right to present evidence and testimony addressing the issues identified in the preceding above. Columbia may also present additional testimony and exhibits after discovery or in response to testimony or exhibits introduced by any party or witness in this proceeding.

i. Scheduling

It appears that OCA and I&E may have developed and agreed to a schedule in this proceeding. The Company was provided a copy of that schedule at 10:30 a.m. today and its counsel is checking with its witnesses and management regarding that schedule. The hearing

days identified in the schedule, April 28 and 29, 2015 are acceptable to the Company. However, the Company is concerned about the time and expense of proceeding with full-blown written major rate case-like prefiled testimony and voluminous discovery that will spawn when, here, there should and can be no legitimate question as to (1) the used or useful nature of these DEP and PENNVEST improvements to an aged water filtration plant and related water facilities said upgrade being crucial to meeting service requirements,¹ (2) the amortization schedule from PENNVEST, and (3) whether the surcharge, which includes adjustments requested from Commission staff, conforms to the policy statement. Instead, the Company sees this case as primarily a legal question to be eventually determined by the Commission; namely, can the Commission in view of the *Masthope* decision cited by OCA in its Complaint allow a 1307(a) surcharge.

There is no need for expensive and time consuming hearings to address and answer that seminal question and all facts necessary for that certainly can and should be stipulated by the parties. That issue should be answered and decided first by Your Honor and this Commission and there are a number of more cost efficient ways to decide that² than the expensive hearing process with multiple rounds of testimony proposed by OCA and agreed to by I&E. The parties might also be directed to meet and see if they can stipulate to certain facts in lieu of hearings or stipulate in each other's affidavits as much of the expected testimony will be in the nature of "policy" and that can be briefed without extensive or potentially any hearing.

¹ In the summer of 2013 during the Company's recent general rate case for the Columbia Division, representatives of OCA and I&E, including engineering ones, toured the facilities that are the subject of this loan as they were under construction at the time and the tour included an explanation of those facilities.

² For instance, Your Honor could certify it as a material question to the Commission. If the answer to that is yes, then the need for hearings and factual development is reduced.

WHEREFORE, the Columbia Water Company respectfully submits this Prehearing Conference Memorandum.

Respectfully submitted,



Thomas J. Sniscak, Esq., I.D. #33891

William E. Lehman, Esquire, I.D. #83936

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Counsel to the Columbia Water Company

Date: February 6, 2015

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

By First Class Mail

Phillip C. Kirchner Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
PO Box 3265
Harrisburg, PA 17105-3265

Christine M. Hoover Esquire
Erin L. Gannon Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place 5th Fl.
Harrisburg Pa 17101-1921

Vincent E Collier
3287 Horizon Drive
Lancaster Pa 17601

Sandra Shaub
3282 Horizon Drive
Lancaster Pa 17601



Thomas J. Sniscak
William E. Lehman

Dated this 6th day of February, 2015