



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

June 24, 2015

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission v.
Columbia Gas of Pennsylvania, Inc. 1307(f)
Docket No. R-2015-2469665

Dear Secretary Chiavetta:

Enclosed please find an original copy of the Bureau of Investigation and Enforcement's (I&E) **Reply Brief** in the above-captioned proceeding:

Copies are being Served on all active parties of record, as reflected in the attached Certificate of Service. Should you have any questions or need additional information, please contact me at (717) 425-7593.

Sincerely,

Scott B. Granger
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. No. 63641

SBG/sea
Enclosure

cc: Certificate of Service
ALJ Mark A. Hoyer

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2015-2469665
	:	
Columbia Gas of Pennsylvania, Inc.	:	
Section 1307(f)	:	

**REPLY BRIEF
OF THE
BUREAU OF INVESTIGATION & ENFORCEMENT**

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Dated: June 24, 2015

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Regulations

None

I. INTRODUCTION AND PROCEDURAL HISTORY.

The Bureau of Investigation and Enforcement (“I&E”) filed its Main Brief (“I&E M.B.”) on June 16, 2015. I&E provided a summary of the history of the proceeding in its Main Brief, which does not need to be repeated or replied to in this, I&E’s Reply Brief.

Also on June 16, 2015 the following parties file their respective Main Briefs; Columbia Gas (“CG M.B.”), Office of Small Business Advocate (“OSBA M.B.”), Office of Consumer Advocate (“OCA M.B.”), and the Natural Gas Suppliers (“NGS M.B.”).

And finally, I&E will file a separate Statement in Support of the Joint Petition for Partial Settlement.

II. SUMMARY OF ARGUMENT.

I&E has recommended that the current allocation of the Unified Sharing Mechanism (“USM”) credits between the purchased gas commodity charge (“PGCC”) and the purchased gas demand charge (“PGDC”) be modified to reflect the Company’s proposed alternative calculation presented in Exhibit No. 16¹ with one modification: the percentage of Capacity Release to total Off System Sales and Capacity Release should be based on the average of the three most recently completed purchased gas cost (“PGC”) periods for which data are available at the time of the 1307(f) proceeding, as should the percentage of revenue derived from Sales, Options, AMA and Exchanges.² I&E and Columbia have presented substantial evidence to support I&E’s proposed modification, therefore I&E’s proposal should be accepted. When I&E witness Hubert ran through the

¹ See Exhibit No. 16, Unified Sharing Mechanism Study, Docket No. R-2015-2469665.

² I&E M.B., p. 12.

calculations in his direct testimony and ultimately concluded and recommended that based on the PGCC and PGDC credit rates projected for the 2015/2016 PGC period the total percentage of USM net revenues that should be allocated to the PGDC is 42.5% (19% + 23.5%) and the revenues allocated to the PGCC would be the remainder of 57.5%.³

The NGS parties continue to argue that Columbia's current USM allocation methodology is arbitrary and discriminatory, and that the only fair and reasonable way of sharing the revenue would be to allocate 100% of the revenue to PGDC.⁴ The NGS Parties' position is fundamentally flawed and ignores the fact that beyond capacity release transactions, all other transactions generating USM revenue involve the sale of natural gas supply which is paid for only by PGC customers.⁵ The NGS Parties' recommendation would simply replace a methodology that the NGS Parties have claimed, but not demonstrated, to be arbitrary and unfair with another methodology that the evidence in this proceeding demonstrates is arbitrary and unfair.⁶ No other party supported this allocation methodology, recognizing the fundamental unreasonableness that would result from this approach.⁷

The OCA argues that the existing, fixed, 60/40 (PGCC/PGDC) split should be maintained.⁸ I&E has concerns and cannot support OCA's position. I&E is concerned that an acceptance of the OCA proposal will only delay resolution of the USM issue until

³ I&E M.B., pp. 14-15 (emphasis added). *See also* I&E Statement No. 1, pp. 17-19.

⁴ NGS M.B., pp. 3, 6, and 20.

⁵ OCA M.B., p. 3.

⁶ I&E M.B., pp. 15-17.

⁷ OCA M.B., p. 3.

⁸ OCA M.B., p. 5.

next year's Columbia 1307(f) proceeding. Instead, I&E urges the Commission to accept the USM methodology first proposed by Columbia and then modified by I&E.⁹

Finally, there is substantial evidence of record to support I&E's recommendation that ALJ Hoyer and the Commission find that the Company's alternative Exhibit 16 USM methodology be modified and accepted as recommended by I&E witness Hubert.¹⁰ Furthermore, the I&E modified methodology provides for the fairest and least arbitrary allocation, and also provides the "just allocation" sought by the Commission in 2014.¹¹

III. LEGAL STANDARD / BURDEN OF PROOF.

I&E addressed the legal standard and burden of proof in its Main Brief. As I&E asserted in its Main Brief, the burden of proof in any proceeding involving a utility's existing or proposed rates is on the utility.¹² The burden of proof, however, shifts to any party proposing to modify Columbia's Unified Sharing Mechanism.¹³ The NGS parties Main Brief touches on this concept but does not definitively state that the NGS parties have the burden of proving whether and how Columbia's USM mechanism should be modified, if at all.¹⁴ For the reasons stated herein, and in I&E's Main Brief, the NGS parties have not satisfied this burden with substantial evidence,¹⁵ and therefore, the NGS parties proposed modification to Columbia's USM should be rejected. I&E and Columbia, on the other hand, have presented substantial evidence to support I&E's

⁹ I&E M.B., pp. 12-15.

¹⁰ I&E M.B., p. 12. *See also* I&E Statement No. 1, p. 15.

¹¹ Cawley Witmer Joint Motion, p. 1. *See also* 2014 Order, p. 32.

¹² *See* 66 Pa.C.S. §§1301, 315(a); *Brockway Glass Co. v. Pennsylvania Public Utility Commission*, 437 A.2d 1067 (Pa. Commw. 1981); *Lower Frederick Twp. v. Pennsylvania Public Utility Commission*, 409 A.2d 505 (Pa. Commw. 1980).

¹³ I&E M.B., p. 5. *See also* OCA M.B., p. 3, and CG M.B., pp. 3-4.

¹⁴ NGS M.B., p. 5.

¹⁵ *Norfolk & Western Ry. Co. v. Pennsylvania Public Utility Commission*, 413 A.2d 1037 (Pa. 1980).

proposed modification to the USM alternative Exhibit 16 allocation methodology, therefore I&E's proposal should be accepted.¹⁶

IV. ARGUMENT.

A. Proposed Modifications to the USM.

1. The History of Columbia's Unified Sharing Mechanism.

I&E provided a detailed history of Columbia's USM in its written testimony as well as in its Main Brief,¹⁷ which does not need to be repeated or replied to in this Reply Brief.

2. The Commission's 2014 Order¹⁸ and the Cawley-Witmer Joint Motion.¹⁹

I&E provided a detailed summary of the Commission's 2014 Order and the Cawley Witmer Joint Statement in its Main Brief,²⁰ which does not need to be repeated or replied to in this Reply Brief.

3. The Columbia Gas Position.

I&E summarized and discussed Columbia's position in its Main Brief,²¹ which does not need to be repeated or replied to in this Reply Brief. It does bear repeating, however, that Columbia provided Exhibit 16 in its pre-filed data in response to the 2014 Order and the Cawley Witmer Joint Motion. Exhibit 16 included the Company's

¹⁶ See Exhibit No. 16, Unified Sharing Mechanism Study, Docket No. R-2015-2469665. I&E relied on the information and analysis set forth in Columbia's Exhibit 16 as well as the testimony and exhibits submitted by I&E.

¹⁷ I&E M.B., pp. 6-7.

¹⁸ See generally OPINION AND ORDER, Docket No. R-2014-2408268, September 11, 2014.

¹⁹ See generally JOINT MOTION OF COMMISSIONER JAMES H. CAWLEY AND COMMISSIONER PAMELA A. WITMER, Docket No. R-2014-2408268, September 11, 2014.

²⁰ I&E M.B., pp. 7-9.

²¹ I&E M.B., pp. 9-12.

evaluation and response to the specific questions set forth in the 2014 Order and the Cawley Witmer Joint Motion.²² Columbia also presented an alternative USM allocation methodology in Exhibit 16.²³

As I&E stated in its Main Brief,²⁴ I&E recommended that the current allocation of the USM credits between the PGCC and the PGDC be modified to reflect the Company's proposed alternative calculation presented in Exhibit No. 16, with one modification as discussed *infra*.

4. The Bureau of Investigation and Enforcement Position.

I&E provided its position in its Main Brief,²⁵ which does not need to be repeated and replied to in this Reply Brief. To summarize, I&E recommended that the current allocation of the USM credits between the PGCC and the PGDC be modified to reflect the Company's proposed alternative calculation presented in Exhibit No. 16 with one modification: the percentage of Capacity Release to total Off System Sales and Capacity Release should be based on the average of the three most recently completed PGC periods for which data are available at the time of the 1307(f) proceeding, as should the percentage of revenue derived from Sales, Options, AMA and Exchanges.²⁶

I&E's proposed modification to Columbia's Exhibit 16 alternative USM methodology is supported by substantial record evidence presented in Columbia's Exhibit 16, and in both Columbia's and I&E's testimony and exhibits. And finally, it bears

²²

Id.

²³

See Exhibit 16, Sheets 3-4 of 4. See also, I&E M.B., pp. 10-12.

²⁴

I&E M.B., p. 12.

²⁵

I&E M.B., pp. 12-15.

²⁶

I&E M.B., p. 12.

repeating that when I&E witness Hubert ran through the calculations in his direct testimony and ultimately concluded and recommended that based on the PGCC and PGDC credit rates projected for the 2015/2016 PGC period the total percentage of USM net revenues that should be allocated to the PGDC is 42.5% (19% + 23.5%) and the revenues allocated to the PGCC would be the remainder of 57.5%.²⁷

5. The NGS Parties' Position.

The NGS parties continue to argue that Columbia's current USM allocation methodology is arbitrary and discriminatory, and that the only fair and reasonable way of sharing the revenue would be to allocate 100% of the revenue to PGDC.²⁸

I&E asserts that the NGS Parties' recommendation would simply replace one methodology that the NGS Parties have claimed to be arbitrary and unfair with another methodology that has been demonstrated to be arbitrary and unfair.²⁹ The OCA has stated that the NGS Parties base their recommendation on their argument that since assets used to meet demand are involved in all off-system sales, the revenues should be returned through the PGDC.³⁰ Continuing, the OCA stated, the NGS Parties' position is fundamentally flawed and ignores the fact that beyond capacity release transactions, all other transactions generating USM revenue involve the sale of natural gas supply which is paid for only by PGC customers.³¹ The OCA added that no other party supported this

²⁷ I&E M.B., pp. 14-15 (emphasis added). *See also* I&E Statement No. 1, pp. 17-19.

²⁸ NGS M.B., pp. 3, 6, 20.

²⁹ *See* I&E M.B., pp. 15-17.

³⁰ OCA M.B., p. 3.

³¹ *Id.*

allocation methodology, recognizing the fundamental unreasonableness that would result from this approach.³²

Therefore, I&E continues to assert that it is I&E's methodology, based on Columbia's alternative methodology presented in Exhibit 16, that is the fairest, least arbitrary and most just of the proposed USM methodologies.³³

6. The OCA Position.

The OCA argued in its Main Brief that the existing, fixed, 60/40 (PGCC/PGDC) split should be maintained.³⁴ The OCA reasoned that Columbia did not propose a modification to the 60/40 split,³⁵ the 60/40 split has been in place since 2008, and there is no compelling reason on this record to modify the allocation.³⁶ As I&E did not address the OCA's proposal in I&E's Main Brief, I&E will address here.

I&E has concerns and cannot support OCA's position. I&E is concerned that an acceptance of the OCA proposal will only push the USM issue down the road until next year's Columbia 1307(f) proceeding. Instead, I&E urges the Commission to accept the USM methodology first proposed by Columbia and then modified by I&E.³⁷ Columbia provided all of the information requested in the Commission's 2014 Order and the Cawley Witmer Joint Motion in its Exhibit 16. The record is now complete. The issue is ripe for adjudication. The alternative methodology set forth in Columbia's Exhibit 16 is

³²

Id.

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I&E M.B. p. 18.

³⁴

OCA M.B., p. 5.

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The OCA is correct that Columbia did not propose a modification to the 60/40 split in its case in chief. However, Columbia did set forth an alternative USM mechanism in its Exhibit 16, which I&E recommends with only a minor modification.

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OCA M.B., p. 5.

³⁷

I&E M.B., pp. 12-15.

workable. The modification proposed by I&E makes it the fairest and most just option presented on the record.

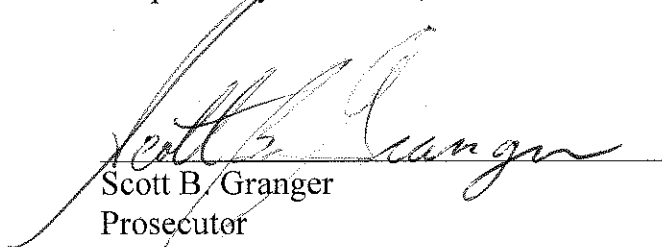
B. The NGS Parties Proposal For A Study Regarding Cost Recovery Of Pipeline Assets to Serve the PGC.

I&E did not address this issue in testimony and offers no position at this time.

IV. CONCLUSION.

I&E respectfully submits that Columbia and I&E have met their burden of proof; and, that there is substantial evidence of record to support I&E's recommendation that ALJ Hoyer and the Commission find that the Company's USM methodology be modified and accepted as recommended by I&E witness Hubert.³⁸ Mr. Hubert's recommendation mirrors that of the Company's alternative USM methodology as set forth in Exhibit 16 but for the modification of using a three year average instead of a four year average. Furthermore, the I&E modified methodology provides for the fairest and least arbitrary allocation, and also provides the "just allocation" sought by the Commission in 2014.³⁹

Respectfully submitted,



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Dated: June 24, 2015

³⁸ I&E M.B., p. 12. *See also* I&E Statement No. 1, p. 15.

³⁹ Cawley Witmer Joint Motion, p. 1. *See also* 2014 Order, p. 32

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 1307(f) :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Reply Brief** dated June 24, 2015, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

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