



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Lindsay A. Berkstresser

lberkstresser@postschell.com
717-612-6021 Direct
717-731-1985 Direct Fax
File #: 160697

July 2, 2015

VIA ELECTRONIC FILING

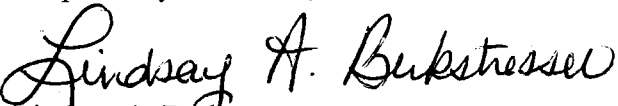
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.
Docket No. R-2015-2468056**

Dear Secretary Chiavetta:

Enclosed please find the Motion of Columbia Gas of Pennsylvania, Inc. to Dismiss Objections and Compel Response to Discovery Propounded on the Bureau of Investigation and Enforcement – Set I – 8, Or In the Alternative to Strike Testimony in the above-referenced proceeding. Copies will be provided as indicated.

Respectfully submitted,


Lindsay A. Berkstresser

LAB/skr
Enclosure

cc: Certificate of Service
Honorable Mary D. Long

**CERTIFICATE OF SERVICE
(Docket No. R-2015-2468056)**

I hereby certify that a true and correct copy 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

Erin L. Gannon, Esquire
Amy E. Hirakis, Esquire
Hobart J. Webster, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Scott B. Granger, Esquire
Bureau of Investigation & Enforcement
PO Box 3265
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17105-3265

Daniel G. Asmus, Esquire
Office of Small Business Advocate
Commerce Building
300 North Second Street, Suite 202
Harrisburg, PA 17101

Charis Mincavage, Esquire
Elizabeth P. Trinkle, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
PO Box 1166
Harrisburg, PA 17108-1166
*Counsel for Columbia Industrial
Intervenors*

Todd S. Stewart, Esquire
Hawke McKeon & Sniscak LLP
100 N. 10th Street
PO Box 1778
Harrisburg, PA 17101
Counsel for The NGS Parties

Harry S. Geller, Esquire
Elizabeth R. Marx, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
Counsel for CAUSE-PA

Thomas J. Sniscak, Esquire
William E. Lehman, Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
PO Box 1778
Harrisburg, PA 17105
*Counsel for The Pennsylvania State
University*

John F. Povilaitis, Esquire
Karen O. Moury, Esquire
Buchanan Ingersoll & Rooney PC
409 N. Second Street, Suite 500
Harrisburg, PA 17101-1357
Counsel for RESA

Robert D. Knecht
Industrial Economics Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140
Consultant for OSBA

Mitchell Miller
Mitch Miller Consulting LLC
60 Geisel Road
Harrisburg, PA 17112
Consultant for CAUSE-PA

James L. Crist
Lumen Group, Inc.
4226 Yarmouth Drive, Suite 101
Allison Park, PA 15101
Consultant for PSU

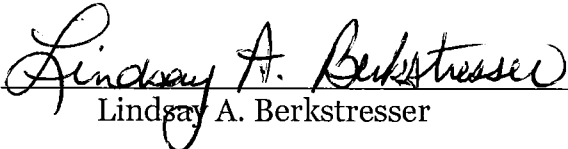
Lafayette K. Morgan
Thomas S. Catlin
Exeter Associates Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
Consultants for OCA

Jerome D. Mierzwa
Exeter Associates Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
Consultant for OCA

Aaron L. Rothschild
Rothschild Financial Consulting
15 Lake Road
Ridgefield, CT 06877
Consultant for OCA

Roger D. Colton
Fisher, Sheehan & Colton
34 Warwick Road
Belmont, MA 02478
Consultant for OCA

Date: July 2, 2015


Lindsay A. Berkstresser

2. On June 29, 2015, I&E served its responses to Columbia to I&E Set I. Within the responses to “Columbia to I&E Set I” served by I&E on June 29, 2015, I&E objected to question CPA-I&E-I-8 and did not provide a response to that question.¹ I&E’s objection was as follows:

I&E Objection. This discovery request seeks information that is confidential, privileged and proprietary information. This discovery seeks information regarding persons and/or entities that are not parties in this proceeding; therefore, this discovery request seeks information not relevant to the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence for this proceeding.

3. On July 1 and 2, 2015, counsel for Columbia called counsel for I&E in an effort to resolve the objection without the need for formal motions. On both occasions, counsel for I&E did not answer the telephone. Counsel for Columbia left a message requesting a call back to discuss the objection. In addition, Counsel for Columbia e-mailed counsel for I&E on July 1, 2015 to request a discussion concerning the objection. Counsel for Columbia received no response. Because the ALJ’s Prehearing Order dated April 21, 2015 provides that Motions to dismiss objections shall be filed and served within three (3) calendar days of receipt of objections, Columbia is compelled to file this Motion without having had a discussion with I&E counsel.

4. Under 52 Pa. Code § 5.321(c), a party is entitled to obtain discovery of any matter not privileged that is relevant to the pending proceeding, or any matter that is reasonably calculated to lead to the discovery of admissible evidence. Discovery is permitted regardless of whether the information sought “relates to the claim or defense of the party seeking discovery or to the claim or defense of another party.” *Id.*

¹ Columbia notes that I&E did not properly raise its objection to CPA-I&E-I-8 “contained in a document separate from an answer” as required by 52 Pa. Code § 5.342(c), nor did counsel for I&E contact counsel for Columbia to attempt to informally resolve the objection.

5. For the reasons stated below, Columbia respectfully requests that the ALJ grant this Motion and order I&E to answer fully question CPA-I&E-I-8, or in the alternative, that the corresponding portion of I&E Statement No. 4 at pages 10-11 and I&E Exhibit No. 4, Schedule 5 be stricken from the record.

II. I&E'S OBJECTION LACKS MERIT

A. I&E's Objection to CPA-I&E-I-8 Lacks Merit.

6. Under 52 Pa. Code § 5.321(b), Columbia is entitled to obtain discovery of any matter not privileged that is relevant to the pending proceeding, or any matter that is reasonably calculated to lead to the discovery of admissible evidence. The discovery sought in CPA-I&E-I-8 is relevant to the current proceeding and is reasonably calculated to lead to the discovery of admissible evidence, and privilege cannot be used to deny Columbia's review of the requested information.

7. On page 10 of I&E witness David Kline's direct testimony he states as follows:

Q. IS THERE AN ALTERNATE METHOD TO COMPARE PIPELINE REPLACEMENT MILES OTHER THAN USING ANNUAL DOT REPORTS?

A. Yes. In my opinion, the only true comparison that Columbia should utilize for its pipe replacement discussion is the data assembled by the Gas Safety Division through information gathered from responses to the form letter FL-1-15 data request that the Gas Safety Division sends out annually. I&E Exhibit No. 4, Schedule 5 shows a variety of information regarding pipeline replacement cost, budgeting and miles:

Mr. Kline goes on to provide a chart on page 11 of his testimony entitled "2014 Miles of Main Replaced for Large PA NGDCS." This chart also appears on I&E Exhibit No. 4, Schedule 5 along with additional charts and information on the total amount spent by other NGDCs on pipeline replacement in 2014, the cost per mile of pipeline replacement, and the amounts

budgeted by other NGDCs for pipeline replacement. It appears that the information shown is derived from responses provided by gas utilities in response to form letter FL -1 -15.

8. The information sought in CPA-I&E-I-8 directly relates to the issue raised in Mr. Kline's direct testimony. I&E claims that the "only true comparison" for the pipeline replacement discussion is the information gathered in response to form letter FL-1-15. I&E then produces a chart containing one year comparisons of that information. Columbia is entitled to review the responses provided to form letter FL-1-15 for a reasonable period of years, as this information was used to prepare the chart on page 11 of Mr. Kline's direct testimony and is the basis for Mr. Kline's argument. Without the requested information, Columbia is unable to evaluate I&E's position and prepare an appropriate response.

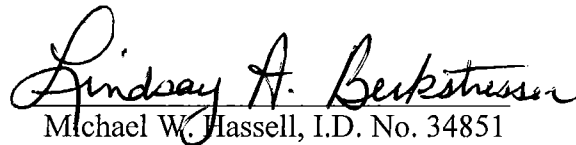
9. Privilege cannot be used as a basis to deny Columbia's review of the requested information. I&E has disclosed information obtain from other utilities in response to the form letter, and thus cannot claim privilege. To the extent that I&E has concerns about the confidential nature of the requested information, Columbia notes that a Stipulated Protective Agreement between Columbia and I&E has already been executed that would protect against the release of confidential information. Based on the foregoing, Columbia is entitled to obtain discovery of the requested information because CPA-I&E-I-8 is relevant and is reasonably calculated to lead to the discovery of admissible evidence.

10. In the alternative, if I&E is unwilling to provide the requested information, Columbia hereby moves to strike I&E Statement No. 4 from page 10, line 10 through page 11, line 3 and I&E Exhibit No. 4, Schedule 5. I&E cannot be permitted to provide testimony and exhibits with data derived from form letter FL – 1 -15 without providing access to all information contained in responses to that form letter for a reasonable period of years.

III. CONCLUSION

For the reasons set forth above, Columbia Gas of Pennsylvania, Inc. respectfully requests that Administrative Law Judge Mary D. Long grant this Motion to Dismiss Objections and Compel Responses to Discovery and direct I&E to answer fully CPA-I&E-I-8, as described above within three (3) days from the date of the order, or in the alternative, that the corresponding portion of I&E Statement No. 4 at pages 10-11 and I&E Exhibit No. 4, Schedule 5 be stricken from the record.

Respectfully submitted,



Michael W. Hassell, I.D. No. 34851
Lindsay A. Berkstresser, I.D. No. 318370
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: mhassell@postschell.com
E-mail: lberkstresser@postschell.com

Theodore J. Gallagher, I.D. No. 90842
Columbia Gas of Pennsylvania, Inc.
121 Champion Way, Suite 100
Canonsburg, PA 15317
Phone: 724-416-6355
Fax: 724-416-6384
E-mail: tjgallagher@nisource.com

Andrew S. Tubbs, I.D. No. 80310
NiSource Corporate Services Company
800 North Third Street, Suite 402
Harrisburg, PA 17102
Phone: 717-238-0684
E-mail: astubbs@nisource.com

Dated: July 2, 2015

Attorneys for Columbia Gas of Pennsylvania, Inc.

Appendix A



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Lindsay A. Berkstresser

lberkstresser@postschell.com
717-612-6021 Direct
717-731-1985 Direct Fax
File #: 160697

June 22, 2015

VIA E-MAIL & REGULAR MAIL

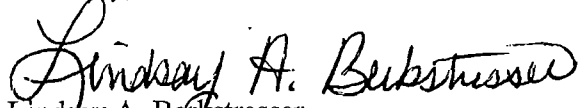
Scott B. Granger, Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
PO Box 3265
Harrisburg, PA 17105-3265

**Re: Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.
Docket No. R-2015-2468056**

Dear Counsel:

Enclosed please find Columbia Gas of Pennsylvania, Inc.'s Interrogatories and Requests for Production of Documents to the Bureau of Investigation and Enforcement – Set I for the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Sincerely,


Lindsay A. Berkstresser

LAB/skr
Enclosure

cc: Certificate of Service
Rosemary Chiavetta, Secretary (*letter and certificate of service only*)

**CERTIFICATE OF SERVICE
(Docket No. R-2015-2468056)**

I hereby certify that a true and correct copy 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

Erin L. Gannon, Esquire
Amy E. Hirakis, Esquire
Hobart J. Webster, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Scott B. Granger, Esquire
Bureau of Investigation & Enforcement
PO Box 3265
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17105-3265

Daniel G. Asmus, Esquire
Office of Small Business Advocate
Commerce Building
300 North Second Street, Suite 202
Harrisburg, PA 17101

Charis Mincavage, Esquire
Elizabeth P. Trinkle, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
PO Box 1166
Harrisburg, PA 17108-1166
*Counsel for Columbia Industrial
Intervenors*

Todd S. Stewart, Esquire
Hawke McKeon & Sniscak LLP
100 N. 10th Street
PO Box 1778
Harrisburg, PA 17101
Counsel for The NGS Parties

Harry S. Geller, Esquire
Elizabeth R. Marx, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
Counsel for CAUSE-PA

Thomas J. Sniscak, Esquire
William E. Lehman, Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
PO Box 1778
Harrisburg, PA 17105
*Counsel for The Pennsylvania State
University*

John F. Povilaitis Esquire
Karen O. Moury, Esquire
Buchanan Ingersoll & Rooney PC
409 N. Second Street, Suite 500
Harrisburg, PA 17101-1357
Counsel for RESA

Robert D. Knecht
Industrial Economics Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140
Consultant for OSBA

Mitchell Miller
Mitch Miller Consulting LLC
60 Geisel Road
Harrisburg, PA 17112
Consultant for CAUSE-PA

James L. Crist
Lumen Group, Inc.
4226 Yarmouth Drive, Suite 101
Allison Park, PA 15101
Consultant for PSU

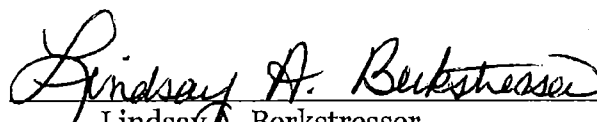
Lafayette K. Morgan
Thomas S. Catlin
Exeter Associates Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
Consultants for OCA

Jerome D. Mierzwa
Exeter Associates Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
Consultant for OCA

Aaron L. Rothschild
Rothschild Financial Consulting
15 Lake Road
Ridgefield, CT 06877
Consultant for OCA

Roger D. Colton
Fisher, Sheehan & Colton
34 Warwick Road
Belmont, MA 02478
Consultant for OCA

Date: June 22, 2015


Lindsay A. Berkstresser

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission
v.
Columbia Gas of Pennsylvania, Inc.

: : : : : :
Docket No. R-2015-2468056

**COLUMBIA GAS OF PENNSYLVANIA, INC.’S INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO THE BUREAU OF
INVESTIGATION AND ENFORCEMENT – SET I**

Pursuant to 66 Pa.C.S. § 333 and 52 Pa. Code §§ 5.341 et seq., Columbia Gas of Pennsylvania, Inc. (“Columbia”), propounds the following Interrogatories and Requests for Production of Documents to the Bureau of Investigation and Enforcement (“I&E”) – Set I.

INSTRUCTIONS AND DEFINITIONS

1. These interrogatories are continuing and you are obliged to change, supplement and correct all answers given to conform to new or changing information.
2. The answers provided should first restate the question asked and identify the person(s) supplying the information.
3. If you object to providing any document requested on any ground, identify such document by describing it as set forth in Instruction 6 and state the basis of your objection.
4. To “identify” a natural person means to state that person’s full name, title or position, employer, last known address and last known telephone number.
5. To “identify” a business entity means to state the full name of such business, the form of the business and its location or address.

6. To “identify” a “document” means to provide all of the following information irrespective of whether the document is deemed privileged or subject to any claim of privilege:

- a. The title or other means of identification of each such document;
- b. The date of each such document;
- c. The author, preparer or signer of each such document;
- d. A description of the subject matter of such document sufficient to permit an understanding of its contents and importance to the testimony or position being examined and the present or last known location of the document. The specific nature of the document should also be stated (e.g., letter, business record, memorandum, computer print-out, etc.).

In lieu of “identifying” any document, it shall be deemed a sufficient compliance with these interrogatories to attach a copy of each such document to the answers hereto and reference said document to the particular interrogatory to which the document is responsive.

7. Whenever the word “document” is used in these interrogatories, it includes, but is not limited to, all printed, typewritten, computer generated or readable, handwritten, graphic or recorded matter, however produced or reproduced, and however formal or informal. For purposes of these interrogatories, the term document includes the terms workpaper, communication and all writings of whatever kind, communications, records of whatever kind, letters, reports, memoranda, books, manuals, instructions, directives, forms, notes of meetings, telephone messages, notices, telegrams, diaries, agreements, written analyses or studies of whatever kind, handwritten notes of conversations, correspondence of whatever kind, summaries, surveys, calculation sheets, contracts, orders or invoices. “Documents” shall include matter stored on computerized memory, magnetic or other media.

8. When an objection is interposed to any question or part thereof, answer the question or all parts thereof to the extent not objected to.

INTERROGATORIES & REQUESTS FOR PRODUCTION OF DOCUMENTS

Rachel Maurer, Witness on behalf of I&E

1. Please provide an electronic copy of all calculations and tables included in Ms. Maurer's testimony and all supporting workpapers in native format (i.e., Microsoft Excel, Lotus 1-2-3, etc.) with all formulas intact.
2. Please provide an electronic copy of I&E Exhibit No. 1 and all supporting workpapers in native format (i.e., Microsoft Excel, Lotus 1-2-3, etc.) with all formulas intact.

Christopher Keller, Witness on behalf of I&E

3. Please provide an electronic copy of all calculations and tables included in Mr. Keller's testimony and all supporting workpapers in native format (i.e., Microsoft Excel, Lotus 1-2-3, etc.) with all formulas intact.
4. Reference I&E St. No. 2, p. 17. Please provide all supporting documentation for the numbers in Table 1.

Jeremy Hubert, Witness on behalf of I&E

5. Please provide an electronic copy of all calculations and tables included in Mr. Hubert's testimony and all supporting workpapers in native format (i.e., Microsoft Excel, Lotus 1-2-3, etc.) with all formulas intact.

David Kline, Witness on behalf of I&E

6. Please provide an electronic copy of all calculations, tables and charts included in Mr. Kline's testimony and all supporting workpapers in native format (i.e., Microsoft Excel, Lotus 1-2-3, etc.) with all formulas intact.

-
7. Please provide an electronic copy of I&E Exhibit No. 4 and all supporting workpapers in native format (i.e., Microsoft Excel, Lotus 1-2-3, etc.) with all formulas intact.
 8. Please provide all information, by company, gathered in response to the form letter FL-15 for the past 7 years.
 9. Why were Peoples, Peoples-Equitable and PECO excluded from the analysis presented on page 8 of Mr. Kline's testimony?