

R-2015-2468056



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June 19, 2015

**VIA ELECTRONIC**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor (filing room)  
Harrisburg, PA 17120

RE: Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.;  
Docket No.: R-2015-2468056; **THE PENNSYLVANIA STATE  
UNIVERSITY'S MOTION FOR SANCTIONS IN THE FORM OF AN  
ORDER COMPELLING COLUMBIA GAS OF PENNSYLVANIA, INC.  
TO PROVIDE FULL AND COMPLETE RESPONSES TO DISCOVERY  
REQUESTS AND GRANTING LEAVE TO FILE SUPPLEMENTAL  
DIRECT TESTIMONY ON THE SUBJECT OF THE DILATORY  
DISCOVERY RESPONSES (PUBLIC VERSION)**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is The Pennsylvania State University's Motion for Sanctions in the Form of an Order Compelling Columbia Gas Of Pennsylvania, Inc. to Provide Full and Complete Responses to Discovery Requests and Granting Leave to File Supplemental Direct Testimony on the Subject of the Dilatory Discovery Responses (**Public Version**) in the above-captioned matter.

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MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
June 19, 2015  
Page 2

If you have any questions concerning these documents, please do not hesitate to contact the undersigned.

Very truly yours,



Thomas J. Sniscak  
William E. Lehman

*Counsel for  
The Pennsylvania State University*

TJS/WEL/das  
Enclosures

cc: Honorable Mary D. Long

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission

v.

Columbia Gas of Pennsylvania, Inc.

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Office of Consumer Advocate

v.

Columbia Gas of Pennsylvania, Inc.

-----  
Office of Small Business Advocate

v.

Columbia Gas of Pennsylvania, Inc.

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Columbia Industrial Intervenors

v.

Columbia Gas of Pennsylvania, Inc.

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Pennsylvania State University

v.

Columbia Gas of Pennsylvania, Inc.

Docket No. R-2015-246805

Docket No. C-2015-2473682

Docket No. C-2015-2477816

Docket No. C-2015-2477120

Docket No. C-2015-2476623

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SECRETARY'S BUREAU

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**THE PENNSYLVANIA STATE UNIVERSITY'S MOTION FOR SANCTIONS IN THE  
FORM OF AN ORDER COMPELLING COLUMBIA GAS OF PENNSYLVANIA, INC.  
TO PROVIDE FULL AND COMPLETE RESPONSES TO DISCOVERY REQUESTS  
AND GRANTING LEAVE TO FILE SUPPLEMENTAL DIRECT TESTIMONY ON THE  
SUBJECT OF THE DILATORY DISCOVERY RESPONSES**

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**PUBLIC VERSION**

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The Pennsylvania State University (“PSU”), by and through its attorneys, Hawke McKeon & Sniscak LLP, and pursuant to 52 Pa. Code §§5.371-5.372, hereby files this Motion for Sanctions in the form of an Order compelling Columbia Gas of Pennsylvania, Inc. (“CPA” or “Company”) to provide full and complete responses to interrogatories and document requests issued by PSU on June 3, 2015 and granting PSU to file supplemental direct testimony regarding the subject matter of discovery within ten (10) calendar days of receiving the full and complete responses. In support thereof, PSU states as follows:

## **I. STATEMENT OF FACTS**

On March 19, 2015, CPA filed Supplement No. 226 to Tariff Gas Pa. P.U.C. No. 9 to become effective May 18, 2015, containing proposed changes in rates, rules, and regulations calculated to produce \$46.2 million (8.63%) in additional annual revenues. On April 9, 2015, the Commission issued an Order suspending CPA’s filing until December 18, 2015, unless permitted by Commission Order to become effective at an earlier date. On April 10, 2015, PSU filed a Complaint against the rate filing which was docketed at C-2015-2476623.

The State College area is presently served by CPA via three (3) Points of Delivery (“PODs”) owned by CPA: the Snowshoe/CPG POD; the Dominion Transmission (“DTI”) POD at Pleasant Gap; and the Texas Eastern Transmission (“TETCO”) POD.

Subsequent to the Company’s rate filing on March 19, 2015 and PSU’s Complaint filing on April 10, 2015, CPA issued a letter dated May 5, 2015, notifying PSU that effective July 1, 2016, CPA would be permanently removing the distribution line from the Snowshoe/Columbia Gas Transmission (“CPG”) POD from service because certain parts of the line need replaced. That issue presents new rate base, O&M, service and reliability and other rate case issues.

PSU was prepared to issue formal discovery on the subject on May 19, 2015, but at CPA's request, the parties agreed to have discussions regarding these issues. These issues are the subject of PSU's Set I, Nos. 1, 2, 7, 8, 9, and 12.

On May 28, 2015, the informal discussion did not (from PSU's perspective) result in either any sufficiently detailed information being provided promptly or any resolution of the issue. Consequently, on June 3, 2015, PSU filed its Set I discovery on CPA.<sup>1</sup>

On April 21, 2015, the Presiding Officer issued a Prehearing Order modifying the Commission's normal discovery procedures pursuant to agreement by the parties:

1. The response period for replying to written interrogatories, requests for production and requests for admissions is within ten (10) calendar days of receipt, unless otherwise indicated. Responses may be served electronically but hard copies must follow by first-class mail. For purposes of tracking due dates, discovery served on a Friday after 12:00 p.m. shall be deemed to have been served on the following business day.

2. Objections to interrogatories, requests for production and requests for admissions are to be communicated orally to the propounder within three (3) calendar days of receipt and in writing within five (5) calendar days of receipt. The parties are directed to confer, by telephone or email, and attempt to resolve the objections.

3. Motions to dismiss objections and compel responses shall be filed and served on the ALJ and other parties within three (3) calendar days of receipt of the written objections. Answers to such motions shall be filed and served within three (3) calendar days after filing of the motion.

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8. Responses to requests for document production, entry for inspection or other purposes shall be served in-hand within ten (10) calendar days.

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<sup>1</sup> Due to the voluminous nature of some of the documents produced, PSU's Set I Discovery Requests, CPA's written responses thereto, and the relevant attachments to CPA's responses are being provided separately via *Hightail* file transfer service, which will allow the reader to download and reference specific documents as needed. Such provision will avoid clogging Your Honor's email system or producing reams of paper.

(Prehearing Order at 5.) Therefore, Oral Objections were due to PSU by June 6 and written Objections were due by June 8, 2015. In the absence of objections, responses to PSU's Set I were due by June 15, 2015.

**PSU has received no objections to its discovery requests from CPA, either orally or in writing.**

On June 15, 2015 PSU received responses to requests no. 3, 4, 5, 6, 10, 11, 13 and 14. The cover letter did not state when responses to requests no. 1, 2, 7, 8, 9 and 12 would be provided, and PSU received no other communication from CPA that day regarding the missing responses or when they might be provided.

Counsel for PSU contacted counsel for CPA on the morning of June 16, 2015 to ask when the missing responses would be provided. CPA's counsel indicated he would get back to counsel for PSU. Later that same day, PSU was served with CPA discovery requests inquiring into the same subject matter as PSU's Set 1.

At 5:20 pm on June 16, 2015, PSU received partial responses to requests no. 1, 2, 7, 8, 9 and 12. As described in detail in the next section, responses to the following requests and subparts of requests were insufficient, nonresponsive or missing entirely:<sup>2</sup>

- l.a insufficient
- l.b nonresponsive
- l.c missing
- l.d missing
- l.e insufficient
- l.f insufficient
- l.g nonresponsive

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<sup>2</sup> As noted above, due to the voluminous nature of some of the documents produced, PSU's Set 1 Discovery Requests, CPA's written responses thereto, and the relevant attachments to CPA's responses are being provided separately via Hightail file transfer service, which will allow the reader to download and reference specific documents as needed.

- 2 insufficient
- 7 insufficient
- 8 insufficient
- 9.a insufficient
- 9.c insufficient
- 9.d missing (provided 4:15 pm on Wed. 6/17)
- 9.e.i insufficient
- 9.e.ii insufficient
- 9.e.vi missing (provided 10:37 am on Fri. 6/19)
- 9.e.ix insufficient
- 9.e.xi missing
- 9.e.xvi missing (insufficient supplement provided 10:37 pm on Fri. 6/19)
- 12.a missing (provided 4:15 pm on Wed. 6/17)
- 12.b insufficient
- 12.d missing (provided 4:15 pm on Wed. 6/17)
- 12.e insufficient
- 14.a nonresponsive

At 4:15 pm on June 17, 2015, PSU received purported “supplemental” responses to requests no. 1.c, 1.d, 9.d, 12.a and 12.d. The supplement provided answers and documents responsive to requests no. 9.d, 12.a, and 12.d.<sup>3</sup> However, as described more fully below, the supplemental responses to requests no. 1.c and 1.d had virtually no relation to the information requested and was entirely nonresponsive. A table listing the responses in question, their deficiencies, and the deficiencies of the supplement is attached as Appendix A.

On June 18, 2015, at 3:51 pm, counsel for PSU sent an e-mail to counsel for CPA noting the continued deficiencies of CPA’s responses and to see if CPA will accede to PSU’s request to

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<sup>3</sup> These documents will also be provided via Hightail file transfer service.

file supplemental testimony relative to the incomplete, unresponsive or tardy responses. At 4:15 pm that same day, PSU received a supplemental response from CPA to PSU Request No. 1.b. At 4:42 pm that same day, counsel for PSU received an acknowledgement of his e-mail from counsel for CPA, which stated that counsel was discussing the matter with CPA. At 6:07 pm Counsel for CPA left a voicemail to PSU's counsel expressing a willingness to speak about the ongoing discovery responses and PSU's position that certain ones were unresponsive; however no response was made regarding PSU's request to file supplemental testimony under the circumstances.

On June 19, 2015, at approximately 9:45 a.m., counsel for PSU and counsel for CPA communicated by telephone and discussed the status of discovery. Counsel for PSU noted that PSU's testimony was due to be filed that day and that it therefore would proceed to file this Motion. Counsel for both parties agreed to continue their discussion of the matters raised in the motion after PSU filed its direct testimony and to attempt to set up a call early next week to see if the differences could be worked out.

Also on June 19, at 10:37 am (i.e., less than six hours before the deadline for PSU's direct testimony), counsel for CPA served supplemental responses to PSU's requests no. 9.e.vi and 9.e.xvi.

As noted above, counsel for PSU and for CPA, mindful of the spirit of the Prehearing Order in this matter and discovery and procedural modifications, will continue informal discussion of the matters raised herein to determine if any or all may be resolved amicably, and counsel for PSU will promptly report any such resolution to the Presiding Officer.

The foregoing, in PSU's opinion, demonstrates that PSU has tried and will continue to try to resolve these differences informally.

## II. ARGUMENT

### A. Legal Standards

Discovery sanctions are governed by Sections 5.371 and 5.372 of the Commission's Rules of Practice and Procedure. 52 Pa. Code §§ 5.371, 5.372. Section 5.371(a) provides that the Presiding Officer "may, on motion, make an appropriate order if ... [a] party fails to ... file sufficient answers, file objections, ... or otherwise respond to discovery requests, as required under this subchapter." *Id.* § 5.371(a)(1). Section 5.371(d) cautions that a party's failure to submit sufficient answers or otherwise respond to discovery "may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has filed an appropriate objection or has applied for a protective order." *Id.* § 5.371(d).

In addition to specific sanctions limiting the claims or evidence of the defaulting party, Section 5.372(a) provides that the Presiding Officer, when imposing discovery sanctions, may make "[a]n order with regard to the failure to make discovery as is just." 52 Pa. Code § 5.372(a)(4). Section 5.372(b) provides for additional sanctions that may be imposed in rate proceedings:

In addition to the sanctions described in subsection (a), in rate proceedings, when a party fails to answer discovery requests on the date due, the presiding officer may issue an order that the hearing schedule be modified, that the deadline for the filing of other parties' written testimony be extended, or that provides other relief that will allow the other parties a sufficient and reasonable opportunity to prepare their cases.

*Id.* § 5.372(b).

### B. CPA Has Failed To File Sufficient Answers, Has Not Filed Objections, Or Otherwise Responded To PSU's Discovery Requests As Required By The Commission's Rules And The Prehearing Order

As shown below, CPA plainly has failed to provide sufficient answers to PSU Requests No. 1, 2, 7, 8, 9, 12 and 14. Since CPA did not file objections to these requests, there is no dispute as to their relevance or reasonableness. The relief to be considered therefore is that: CPA

be directed to provide answers to those it did not answer, and full and responsive answers to those questions which were not answered sufficiently; and PSU be provided a reasonable opportunity to supplement its direct testimony after receiving those answers.

**PSU Request No. 1.**

Request No. 1 asks CPA to “List and identify all delivery points of the Columbia distribution system with each interstate pipeline.” It then lists a series of requests for information and documentation “For each delivery point.” CPA has failed to provide sufficient responses to the following requests:

**“a. Identify the year the point of delivery was placed into service.”**

In response to Request No. 1.a, CPA produced a document designated PSU 1-001(a) Attachment A (*this document was attached to CPA’s written response to Request No. 1, rather than produced as a separate file*). This document does not list the requested in-service years but instead lists information for POD stations that includes installation dates for some, but not all, of the stations. Even assuming that the POD stations were placed in service in the same year they were installed, the document does not include installation dates for a large number of POD stations. For many stations, the entry for installation date in the third column of the document is either blank or contains such uninformative terms as “various” or “production wells.” Therefore, CPA’s response is insufficient.

**“b. Identify the original cost, depreciable lives of the interconnection facilities, and present net rate base (original cost minus depreciation) of each such facility, and the amount, if any, of customer contributions to construction of those interconnections.”**

In response to Request No. 1.b, CPA initially produced a document designated PSU 1-001(b) Attachment A (*this document was attached to CPA’s written response to Request No. 1, rather than produced as a separate file*). This document shows the accumulated cost, allocated reserve, and net value of the total business segment, stated on a total basis. CPA supplemented its response on the afternoon of June 18, 2015 by producing the same information stated for each

individual POD station. CPA's response to Request No. 1.b, as supplemented, is insufficient because it does not provide all of the requested information, including depreciable lives and the amount, if any of customer contributions to construction of those interconnections.

**“c. Identify the geographic area served by Columbia from that connection”**

CPA's initial response to Request No. 1.c (served after the close of business on June 16) did not provide the requested information but merely stated “Will supplement.” CPA's supplemental response, submitted on the afternoon of the next day, did not cure this failure. The supplemental response refers to a document designated PSU 1-001(c) Attachment A. This document is similar to the document designated PSU 1-001(a) Attachment A, except with less information. It lists POD stations, installation dates, and whether they are in service. It provides no information as to the geographic areas served by the POD stations. CPA has thus failed to provide the requested information.

**“d. Identify how many customers take service from that connection that are served under the Main Line tariffs of the Company (MLSS, MLDS, Class 1 or Class 2) and which rate schedule they are served under.”**

CPA's initial response to Request No. 1.d did not provide the requested information but merely stated “Will supplement.” CPA's June 17 supplemental response did not cure this failure. The supplemental response refers to the same document designated PSU 1-001(c) Attachment A as does the supplemental response to request no 1.c. As noted above, this document merely lists POD stations, installation dates, and whether they are in service. It provides no information as to the number of customers that take service from the connection or the rate schedule they are served under. CPA has thus failed to provide the requested information.

**“f. For each delivery point, identify whether it is in service and if not explain why not.”**

In response to Request 1.f, CPA referred to the document it produced and designated PSU 1-001(a) Attachment A. However, while that document does indicate whether each

delivery point station is in service or not, it does not “explain why” the out-of-service stations are “not” in service. The response is therefore insufficient.

**PSU Request No. 2.**

Request No. 2 asks:

**For each delivery point listed in question 1 above, identify the amount of capacity and the owner or entity that is contracting for the capacity. Columbia should be identified by name. Other entities should be identified by non-identifying labels (A, B, C, etc). List the date that the capacity contract was initiated.**

CPA’s response states:

Please see PSU 1-002 Attachment A. The information provided in this response relates to Columbia's contracted capacity. Columbia does not have information with regards to the level of capacity others may also have contracted to these points of delivery ("POD"). Additionally, the values provided represent Daily Delivery Quantities at each POD and will not sum to Columbia's contracted capacity entitlements.

Contract initial dates will be supplemented.

The response is insufficient because the document designated PSU 1-002 Attachment A does not provide total contracted capacity requirements, and because the contract initial dates have never been provided.

**PSU Request No. 7.**

Request No. 7 asks:

**Identify and explain the process and necessary approvals, if any, for the Company to remove a segment of distribution piping from service.**

CPA’s response is “See the response to PSU 1-001 (g),” which states:

No specific documentation on segment of pipe removed is maintained on a project by project basis unless approvals in accordance with engineering policy are needed. Columbia regularly removes pipe from service as part of its normal pipeline replacement program. Prior to taking the section of pipeline out of service, the engineering department determines how to best maintain the system after the section of pipeline has been retired.

This response is insufficient because, while it arguably refers to the process for removing a segment of distribution piping from service, it does not “explain” the process or any necessary approvals, as requested. The “engineering policy” is not provided, and the “normal pipeline replacement program” is not described.

#### **PSU Request No. 8.**

Request No. 8 asks:

**Provide all internal documents related to removal of any segment of distribution piping from service over the past three years and in the period through the end of the FFIY.**

As in the case of Request No. 7, CPA’s response is “See the response to PSU 1-001 (g),” which states:

No specific documentation on segment of pipe removed is maintained on a project by project basis unless approvals in accordance with engineering policy are needed. Columbia regularly removes pipe from service as part of its normal pipeline replacement program. Prior to taking the section of pipeline out of service, the engineering department determines how to best maintain the system after the section of pipeline has been retired.

This response is insufficient. As noted above, the referenced “engineering policy” is not provided, and the “normal pipeline replacement program” is not described. More important, **none** of the requested internal records of piping removal are provided. It is inconceivable that no such records exist.

#### **PSU Request No. 9.**

Request No. 9 comprises a series of requests for information and documents “Regarding the announced plan to permanently remove portions of Columbia's distribution system connecting Columbia Gas Transmission (CPG) to the State College area (“planned removal”).” CPA has failed to provide sufficient responses to the following requests sub-requests of Request No. 9.

**“a. Specifically identify, provide and explain the process and all documents relied upon by Columbia in its decision.”**

In response to Request 9.a., CPA produced four documents: Attachment A, which is an April 2014 PowerPoint presentation by Nisource Gas Distribution for CGPA Gas Systems Planning; Attachment B, which is a February 2015 update of the April 2014 PowerPoint; Attachment C, which is March 14, 2015 PowerPoint by N. Paloney, Dir. CPA/CMD Rates and Regulatory Affairs; and Attachment D, which is a narrative of the review and decision process to remove the Snowshoe POD, apparently prepared internally and likely for purposes of this litigation. These presentations are responsive to the request, but they also illustrate the incompleteness of the response. The cost calculations, financial analyses, and engineering descriptions contained in the four documents clearly rely on the Company’s business records. None of these records has been produced.

**“c. Provide and identify all documents and communications regarding such removal between Columbia and all entities, persons, customers, corporations, partnerships other than CPG.”**

In response to Request No. 9.c, CPA refers to three documents, designated attachments 1-009(c)A, B and C. Attachment 1-009(c)A is form letter to natural gas suppliers regarding removal of parts of system from Snowshoe to State College. Attachment 1-009(c)B is a form letter to general distribution customers notifying them of the removal. Attachment 1-009(c)C is a form letter almost identical to B except that it is from a different individual and refers questions to a different individual. No list of addressees was produced. No responses or other communications from addressees regarding the subject were provided or referenced in the response. The fact that CPA did not produce any records of its communications with PSU proves the incompleteness of this response. CPA should provide these customer communications or verify that none exist.

**“e. Regarding the planned removal, identify and detail:**

**“i. all maintenance and replacements and upgrades undertaken by Columbia in the past 20 years on such distribution line, including the**

**amount of dollars per each year, the specific maintenance, replacement or upgrade undertaken;”**

In response to Request No. 9.e.i, CPA refers to a document designated as PSU-1009(e)(i) Attachment A, which is a spreadsheet that appears to list various maintenance actions on a large number of items. The response is insufficient because it does not contain sufficient descriptions of the data provided, and thus it is unclear how or whether the data are responsive to the request. It is also insufficient because the requested dollar totals per year are not provided.

**“ii. explain why any such maintenance, replacement or upgrade was insufficient to warrant continued use of the line;”**

CPA responds to Request 9.e.ii as follows:

Columbia commissioned a MAOP study by a third party engineering firm (RCP). This study was completed to identify existing documentation and to verify the MAOP of this pipeline. The results of the study indicated that documentation was incomplete for the majority of pipeline D-10018. Transmission pipelines without adequate pressure test records will require hydrostatic testing of the pipeline due to the current IVP flowchart developed by PHMSA to satisfy the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011. (section 23 60139 (d))

A study by an engineering consulting firm (GTS) was performed to assess the better of the two options between a hydrostatic test of the pipeline or replacement. The study indicates replacement of pipeline D-10018 is recommended over hydrostatically testing the pipeline. Further, hydrostatically testing of a pipeline of this vintage is not recommended due to the pre-code nature of this pipe and unknown pipe attributes.

This response is insufficient because CPA’s response does not provide the requested explanation of “*why* any such maintenance, replacement or upgrade was insufficient to warrant continued use of the line” (emphasis added). While the referenced studies may contain the answer, the studies were not produced.

**“ix. identify and provide which “certain parts” of the Columbia distribution pipeline will be taken out of service and itemize for each what the cost of replacement requirements and costs are for each certain part;”**

CPA's response to Request 9.e.ix is "Please see PSU 1-009(a) Attachment A-D" Attachment A is an April 2014 PowerPoint presentation by Nisource Gas Distribution for CGPA Gas Systems Planning; Attachment B is a February 2015 update of the April 2014 PowerPoint; Attachment C is a March 14, 2015 PowerPoint by N. Paloney, Dir. CPA/CMD Rates and Regulatory Affairs; and Attachment D is a narrative of the review and decision process to remove the Snowshoe POD, apparently prepared for purposes of this litigation. While these documents describe segments of pipeline and contain aggregate cost figures, they do not provide or identify the "certain parts" to be taken out of service with specificity or state such costs on an itemized basis, as requested. The response is therefore insufficient.

**"xi. identify and detail all classes of customers by throughput for each of the last 20 years that receive gas via the Snowshoe to State College pipeline to be taken out of service;"**

CPA's response to Request 9.e.xi is "Will supplement." To date, nothing has been received.

**"xvi. identify the anticipated change in throughput at each of the other delivery points or PODs feeding the distribution system to State College due to the permanent removal of the distribution line connecting CPG to the State College area.**

**i. Provide and identify such information by customer class."**

CPA's original, June 16 response to Request 9.e.xvi was "Will supplement." At 10:43 am on June 19, 2019, CPA supplemented its response with the following answer:

It is anticipated that the throughput from Snowshoe POD will decrease dramatically and throughput will be a very small amount, on the order of 20 Dth/ day at maximum, to supply the remaining taps on the northern portion of the Snowshoe to State College pipeline. It is anticipated that the DTI POD at Pleasant Gap will pick up those volumes that previously came through the Snowshoe POD (save the volumes for the customers on the northern portion mentioned above) and also to likely offset some of the throughput from the TETCO POD at DTI. It is anticipated the volumes delivered thru the Eastern States PODs will be reduced to zero or near zero.

CPA's response is insufficient because it does not provide the breakdown requested by subpart i: "Provide and identify such information by customer class." Request No. 9.e.xvi asks what gas is flowing by customer *class* for each of the PODs; the response does not provide this information. The response is also insufficient because it does not identify the locations of the referenced "Eastern States PODs."

**Request No. 12**

Request No. 12 consists of several questions and requests "Regarding the interstate pipelines Dominion Transmission (DTI) and Texas Eastern Transmission (TETCO) at Pleasant Gap," including the following:

**[BEGIN PROPRIETARY]**

**[END PROPRIETARY]**

### **Request No. 14**

Request No. 14 states:

- 14. Identify the number of Main Line customers (MLSS or MLDS) that receive service through a Columbia of PA distribution line that has other customers receiving service through the same line.**
  - a. For each such Main Line customer describe the length and size of piping from the interstate pipeline POD and list the number of customers by customer classification served from the same facility.**

CPA's response:

Six customers receive service through a Columbia of PA distribution line that has other customers receiving service through the same line. The requested information was reviewed by Penn State's consultant on May 28, 2015.

PSU's consultant did review CPA's maps, but it was apparent that the referenced customers were not serviced as a stand-alone hook-up to a transmission line. Discovery Request 14.a. was propounded because the maps did not provide the requested information. The information still has not been provided.

#### **C. Limited and Minor Sanctions Should Be Imposed On CPA For Failing To Provide Full And Complete Responses To PSU's Discovery Requests**

As stated above, PSU received no objections from CPA either orally or in writing to any of its Set I discover requests. Therefore, CPA may not be excused from responding to the requests on the ground that they are objectionable on relevance grounds or otherwise. 52 Pa. Code § 5.371(d). Moreover, the information sought in Nos. 1, 2, 7, 8, 9, 12 and 14 is directly relevant to rate base in the FFPTY, O&M, as well as service, reliability and prudence issues.

Sanctions in the form of the relief requested – an order compelling complete responses to PSU's discovery requests and allowing PSU the opportunity to supplement its direct testimony after receiving the responses – are both warranted and reasonable.

PSU's direct testimony is due on June 19, 2015, and PSU has therefore been directly prejudiced and harmed by CPA's failure to serve sufficient, timely responses to PSU's Set 1 discovery requests. This prejudice and harm has resulted not only from the insufficiency of many of CPA's responses, as discussed above, but also from the extreme lateness of CPA's other responses to PSU's discovery requests.

As noted above, PSU delayed propounding its formal discovery requests for approximately two weeks at CPA's behest during informal discussions between the parties. Therefore, it was especially important that CPA file its responses to PSU's requests when they were due, on June 15, 2015. However, CPA did not serve its initial, incomplete responses to Request Nos. 1, 2, 7, 8, 9, and 12 until after close of business (5:20pm) on June 16, 2015. It did not provide responses to Request Nos. 9.d, 12.a and 12.d until 4:15 on June 17, 2015, and it did not provide responses to Request Nos. 9.e.vi and 9.e.xvi until 10:43 a.m. on June 19, 2015, less than six hours before the deadline for filing PSU's directed testimony.

PSU should not be harmed or prejudiced in its presentation of evidence, and CPA should not be benefitted, by CPA's failure to provide responses to PSU's discovery requests when due. This is particularly true in view of the fact that CPA spent time working on propounding its own discovery upon PSU when it could have been expediting its overdue answers.

### **III. REQUEST FOR RELIEF**

PSU requests that the Presiding Officer enter an Order:

1. Compelling CPA to fully and completely answer PSU's Set 1, Nos. 1, 2, 7, 8, 9, 12 and 14, immediately and in no event later than five (5) calendar days after issuance of the Order;

2. Permitting PSU to file supplemental direct testimony on the subject matter contained in PSU's Set 1, Nos. 1, 2, 7, 8, 9, 12 and 14 within ten (10) calendar days after receipt of CPA's full and complete responses to PSU's discovery requests; and

3. Granting such further relief as may be just and reasonable.

Respectfully submitted,



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*Counsel for The Pennsylvania State University*

DATED: June 19, 2015

**APPENDIX A**

Req. #	Defect	Reason
1.a.	Insufficient	Attachment lists some but not all installation dates.
1.b.	Insufficient	<p>Original attachment did not provide all of the requested information, and the information it does provide is stated in the aggregate, rather than for each delivery point</p> <p>Supplemented with additional documents at 4:15 pm on 6/18/2015, but response remains insufficient because it does not provide all of the requested information, including depreciable lives and the amount, if any of customer contributions to construction of those interconnections</p>
1.c.	Missing	<p>Original CPA response: "will supplement."</p> <p>Supplemented at 4:15pm on 6/17/2015, but supplement consists of a completely nonresponsive document and does not cure deficiency.</p>
1.d.	Missing	<p>Original CPA response: "will supplement."</p> <p>Supplemented at 4:15pm on 6/17/2015, but supplement consists of a completely nonresponsive document and does not cure deficiency.</p>
1.f.	Insufficient	Attachment does not "explain why" the out-of-service stations are "not" in service, as requested.
2.	Insufficient	<p>Attachment does not provide total contracted capacity requirements.</p> <p>Response says contract initial dates "will be supplemented," but none received to date.</p>
7.	Insufficient	The cross-referenced response does not "explain" the process or any necessary approvals, as requested. The referenced "engineering policy" is not provided, and the referenced "normal pipeline replacement program" is not described.
8.	Insufficient	The cross-referenced response does not "explain" the process or any necessary approvals, as requested. The referenced "engineering policy" is not provided, and the referenced "normal pipeline replacement program" is not described. In addition no internal records of piping removal are provided.

Req. #	Defect	Reason
9.a.	Insufficient	These presentations are responsive to the request, but they also illustrate the incompleteness of the response. The cost calculations, financial analyses, and engineering descriptions contained in the four documents clearly rely on the Company's business records. None of these records has been produced.
9.c.	Insufficient	Three form letters are produced. However, the identities of those to whom the letter was sent is not provided. No responses or other communications from customers regarding the subject were provided or referenced in the response.
9.e.i.	Insufficient	The response is insufficient because it does not contain sufficient descriptions of the data provided, and thus it is unclear how or whether the data are responsive to the request. It is also insufficient because the requested dollar totals per year are not provided.
9.e.ii.	Insufficient	The response does not provide the requested explanation of " <i>why</i> any such maintenance, replacement or upgrade was insufficient to warrant continued use of the line" (emphasis added). While the referenced studies may contain the answer, the studies were not produced.
9.e.ix.	Insufficient	While referenced documents describe segments of pipeline and contain aggregate cost figures, they do not provide identify the "certain parts" to be taken out of service with specificity or state such costs on an itemized basis, as requested.
9.e.xi.	Missing	CPA response: "will supplement," but no supplement received to date.
9.e.xvi	Insufficient	CPA's initial response was "will supplement."  The supplement received at 10:43 on June 19, 2015 is insufficient because it does not provide the breakdown requested by subpart i: "Provide and identify such information by customer class." Request No. 9.e.xvi asks what gas is flowing by customer <i>class</i> for each of the PODs; the response does not provide this information. The response is also insufficient because it does not identify the locations of the referenced "Eastern States PODs."
<p data-bbox="183 1692 553 1724"><b>[BEGIN PROPRIETARY]</b></p> <p data-bbox="1117 1850 1455 1881" style="text-align: right;"><b>[END PROPRIETARY]</b></p>		

<b>Req. #</b>	<b>Defect</b>	<b>Reason</b>
14. a.	Missing	Maps provided to PSU consultant did not provide the requested information, which has not been provided.

## CERTIFICATE OF SERVICE

**Docket Nos. R-2015-2468056, C-2015-2473682,  
C-2015-2477816; C-2015-2477120 and C-2015-2476623**

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

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Dated: June 19, 2015

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