



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 28, 2015

VIA ELECTRONIC FILING

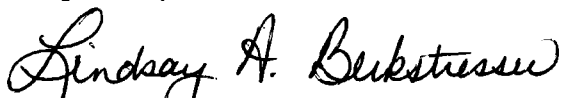
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**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. for a Protective Order in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

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
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
Christopher M. Arfaa, 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

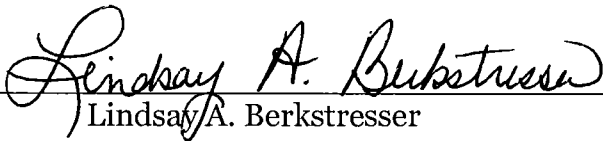
Lafayette K. Morgan
Thomas S. Catlin
Exeter Associates Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
Consultants for OCA

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 28, 2015


Lindsay A. Berkstresser

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**MOTION OF COLUMBIA GAS OF PENNSYLVANIA, INC.
FOR A PROTECTIVE ORDER**

TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:

Columbia Gas of Pennsylvania, Inc. (“Columbia”), by and through its attorneys, Post & Schell, P.C., hereby requests that the attached Protective Order be entered in the above-captioned proceeding pursuant to the provisions of 52 Pa. Code § 5.365(a). This Motion was previously circulated to all active parties to the proceeding (collectively referred to as “Parties”). Columbia is aware that two Parties, the Pennsylvania State University and the NGS Parties, oppose Paragraph 7 of the attached Order. Columbia is not aware of other opposition to the proposed Protective Order. In support thereof, Columbia represents as follows:

1. On March 19, 2015, Columbia filed with the Pennsylvania Public Utility Commission (“Commission”) Supplement No. 226 to its Tariff Gas – Pa. P.U.C. No. 9 (“Supplement No. 226” or “base rate filing”), pursuant to 66 Pa.C.S. § 1308, along with all supporting exhibits, standard data responses and testimony required to be submitted in conjunction with a tariff change seeking a general rate increase. Supplement No. 226, issued March 19, 2015 and to be effective May 18, 2015, proposes an increase in revenues of approximately \$46.2 million which represents an 8.63% increase in

operating revenues based upon a pro forma fully forecasted future test year ending December 31, 2016.

2. The proceeding has been assigned to Administrative Law Judge Mary D. Long (the "ALJ") for hearings and issuance of a Recommended Decision.

3. A prehearing conference was held on April 16, 2015, at which time a litigation schedule was established.

4. The Parties to this proceeding engaged in substantial formal and informal discovery prior to and following the prehearing conference.

5. Proprietary Information within the definition of 52 Pa. Code § 5.365 has been requested in discovery during the course of this proceeding. Such information has been shared pursuant to confidentiality agreements between the parties to the case. Some of this information has been included in the testimony of certain Parties, which justifies the issuance of a Protective Order. Specifically, several pieces of testimony submitted by several parties to this proceeding contain confidential information regarding individual customer usage and sensitive commercial information. Parties may also desire to use confidential or proprietary information for cross-examination purposes. Treatment of such information as set forth in the attached proposed Protective Order is justified because unrestricted disclosure of this information would not be in the public interest. These considerations constitute cause for the restrictions specified in 52 Pa. Code § 5.365 and in Administrative Law Judge or Commission Orders granting relief pursuant to said regulation.

6. Under 52 Pa. Code §§ 5.362(a)(7) and 5.365, the Administrative Law Judge or the Commission may issue a Protective Order to limit or prohibit disclosure of confidential commercial information where the potential harm to a participant would be

substantial and outweighs the public's interest in having access to the confidential information. In applying this standard, relevant factors to be considered include: the extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information may already be known by others; and the potential value of such information to the participant and the participant's competitors and trade partners. 52 Pa. Code §§ 5.365(a)(1) – (3).

7. The documents sought to be protected by the Proposed Order also contain proprietary information as described in 66 Pa.C.S. § 335(d), which provides:

if a document contains trade secrets or proprietary information and it has been determined by the commission that harm to the person claiming the privilege would be substantial or if a document required to be released under this section contains identifying information which would operate to the prejudice or impairment of a person's reputation or personal security, or information that would lead to the disclosure of a confidential source or subject a person to potential economic retaliation as a result of their cooperation with a commission investigation, or information which, if disclosed to the public, could be used for criminal or terroristic purposes, the identifying information may be expurgated from the copy of the document made part of the public record.

Therefore, treatment of such information as set forth in the attached proposed Protective Order is justified under 66 Pa.C.S. § 335(d).

8. The attached proposed Protective Order defines "Confidential" information in Paragraph 3 as "those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Party or its clients to risk of competitive disadvantage or other business injury." Clearly, protecting this type of information from disclosure is appropriate.

9. Limitation on the disclosure of "Confidential" information will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and

fair resolution of this proceeding. The proposed Protective Order balances the interests of the Parties, the public, and the Commission.

10. Columbia has entered into Stipulated Protective Agreements with all active Parties in this proceeding, including the Bureau of Investigation and Enforcement (“I&E”), Office of Consumer Advocate (“OCA”), Office of Small Business Advocate (“OSBA”), Columbia Industrial Intervenors (“CII”), Coalition for Affordable Utility Service and Energy Efficiency - Pennsylvania (“CAUSE-PA”), The Pennsylvania State University (“PSU”), Dominion Retail, Inc., Interstate Gas Supply, Inc. and Shipley Choice LLC (“NGS Parties”), and Retail Energy Supply Association (“RESA”). The Protective Order is substantially based upon the terms and conditions contained in the Stipulated Protective Agreements, as modified slightly to clarify the sharing of Proprietary Information with and by the Commission in Paragraph 8.

11. Columbia has included Paragraph 7 of the attached Order to preserve the ALJ’s and the Commission’s rights to allow persons, other than those who otherwise fit within the terms of the Order, to review Proprietary Information. This issue arose earlier in this proceeding, and Parties ultimately were able to resolve their differences. However, surrebuttal and rejoinder testimony are scheduled to be submitted later this week, and Columbia remains concerned that its ability to respond to such testimony may be hampered through further designations of Highly Confidential material. In that event, Columbia seeks the right to obtain further judicial relief, as justice requires.

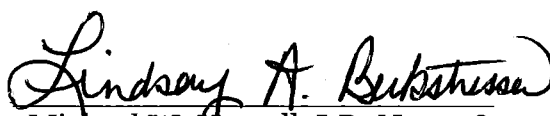
12. Attached to the proposed Protective Order is a list of the confidential testimony and exhibits that have been submitted by the Parties in this proceeding as of the date of this Motion. The Parties will update Appendix A for any additional

confidential testimony or exhibits that are subsequently submitted with surrebuttal or rejoinder testimony, or offered as exhibits during cross-examination.

13. The attached proposed Protective Order will protect the confidential information while allowing the Parties to use such information for purposes of the instant litigation.

WHEREFORE, for all the foregoing reasons, Columbia Gas of Pennsylvania, Inc. requests that Administrative Law Judge Mary D. Long grant this Motion and issue the attached Protective Order.

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 28, 2015

Attorneys for Columbia Gas of Pennsylvania, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

PROTECTIVE ORDER

Upon consideration of the Motion for a Protective Order that was filed by Columbia Gas of Pennsylvania, Inc. on July 28, 2015;

IT IS ORDERED THAT:

1. The Protective Order is hereby granted with respect to the material and information identified in Paragraphs 2 and 3 below and Appendix "A" hereto, which have been or will be filed with the Commission, or otherwise presented during the above-captioned proceeding and all proceedings consolidated therewith. All persons previously or hereafter granted access to the materials and information identified in Ordering Paragraphs 2 and 3 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. The material or information subject to this Protective Order includes testimony and exhibits filed by various witnesses and parties that contains Proprietary Information. To the extent any additional Proprietary Information is filed with the Commission or presented in this proceeding, such information shall also be subject to this Protective Order.

3. "CONFIDENTIAL" materials are those materials which customarily are treated by that party as sensitive or proprietary, which are not available to the public,

and which, if disclosed freely, would subject that party or its clients to risk of competitive disadvantage or other business injury. “HIGHLY CONFIDENTIAL” materials are those materials that are of such a commercially sensitive nature among the parties or of such a private, personal nature that the producing party is able to justify a heightened level of confidential protection with respect to those materials. For example but without limitation, “HIGHLY CONFIDENTIAL” information may include Proprietary Information that constitutes or describes: (i) customer names or customers’ prospects’ names, addresses, annual volumes of gas usage, or other customer-identifying information; (ii) competitive strategies or service alternatives; (iii) competitive pricing or discounting information; and (iv) marketing materials that have not yet been used. Together, these Confidential and Highly Confidential materials will be referred to as “Proprietary Information” for the purposes of this Protective Order.

4. Proprietary Information shall be made available to counsel who has entered an appearance in this proceeding and does not have responsibilities constituting a Restricted Party for the non-producing Party, subject to the terms of this Protective Order. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross examination or argument in this proceeding.

5. In addition, information deemed as “CONFIDENTIAL” material shall be made available to a “Reviewing Representative” who is a person who is:

- (i) An expert or an employee of an expert retained by a party for the purpose of advising, preparing for or testifying in this proceeding;
or
- (ii) Employees or other representatives of a party appearing in this proceeding with significant responsibility for this docket.

Information deemed as “HIGHLY CONFIDENTIAL” material may be provided to a “Reviewing Representative” who is:

- (i) An expert or an employee of an expert retained by a party for the purposes of advising, preparing for or testifying in this proceeding; or
- (ii) A person designated by agreement between the producing party and the non-producing party as a Reviewing Representative for purposes of HIGHLY CONFIDENTIAL PROTECTED MATERIAL; and who is
- (iii) Not a “Restricted Party” as defined in Paragraph 6 of this Protective Order.

A qualified “Reviewing Representative” for “HIGHLY CONFIDENTIAL” material may review and discuss “HIGHLY CONFIDENTIAL” material with their client or with the entity with which they are employed or associated, to the extent that the client or entity is not a “Restricted Person”, but may not share with or permit the client or entity to review the “HIGHLY CONFIDENTIAL” material. Such discussions must be general in nature and not disclose specific “Highly Confidential” information.

6. A Reviewing Representative or counsel entering appearance may not be a “Restricted Party.” “Restricted Party” shall mean: (a) an officer, director, stockholder, partner, owner or employee of any competitor of a Party; (b) an officer, director, stockholder, partner, owner or employee of any affiliate of a competitor of a Party (including any association of competitors of a Party); (c) an officer, director, stockholder, owner or employee of a competitor of a customer of a Party if the Proprietary Information concerns a specific identifiable customer of the Party; (d) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a customer of a Party if the Proprietary Information concerns a specific identifiable

customer of the Party; (e) an officer, director, stockholder, owner or employee of an entity which has sold gas to a Party in the last twenty-four (24) months; or (f) an officer, director, stockholder, owner or employee of an affiliate of an entity which has sold gas to a Party in the last twenty-four (24) months; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business would provide a significant motive for violation of the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than a 1% interest in a business establishes a significant motive for violation.

7. No other person may have access to the Proprietary Information except as authorized by order of the Commission or the Presiding Administrative Law Judge. Such persons shall use and disclose such information only in accordance with this Protective Order.

8. Proprietary Information produced in this proceeding shall be made available to the Commission and its Staff. For purposes of filing, to the extent that Proprietary Information is placed in the Commission's report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Proprietary Information shall be permitted only in accordance with this Protective Order.

9. The nonproducing Party will consider and treat the Proprietary Information as within the exemptions from disclosure provided in the Pennsylvania Right to Know Law, Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104, effective January 1, 2009, until such time as the information is found to be non-proprietary.

10. Any public reference to Proprietary Information by a Party shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

11. Part of any record of this proceeding containing Proprietary Information shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the Parties or pursuant to an order of the Administrative Law Judge, the Commission or appellate court.

12. The nonproducing Party shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information. If a nonproducing Party challenges the designation of a document or information as within the definition established in paragraph 3 of this Protective Order, the Party providing the information retains the burden of demonstrating that the designation is appropriate.

13. Each Party shall retain the right to question or challenge the admissibility of Proprietary Information; to object to the production of Proprietary Information on any proper ground other than confidentiality; to refuse to produce Proprietary Information pending the adjudication of the objection; and to seek additional measures of protection of Proprietary Information beyond those provided in this Protective Order.

14. Within 30 days after a Commission Final Order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, the nonproducing Party, upon request, shall either destroy or return to the producing Party all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In the event that the nonproducing Party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies of documents and other materials containing Proprietary Information to the producing Party, the nonproducing Party shall certify in writing to the producing Party that the Proprietary Information has been destroyed.

Dated: _____

Administrative Law Judge
Mary D. Long

“Appendix A”

The following confidential testimony and exhibits have been submitted by the Parties in this proceeding as of the date of this Motion:

1. I&E Exhibit No. 3, Schedules 9 and 10 accompanying the Direct Testimony of Jeremy B. Hubert. Schedule 9 identifies customer usage information for customers who pay less than the tariff rate for service. Schedule 10 identifies the rate schedule and total discount received by each customer who pays less than the tariff rate.
2. PSU Statement No. 1-SD, Supplemental Direct Testimony of James L. Crist, p. 4, l. 2-26; p. 5, l. 1-28; p. 6, l. 1-16. The identified portions of this document contain a customer name and internal communications of Columbia related to business strategy.
3. Columbia Statement No. 116-R, Rebuttal Testimony of Michael Anderson, p. 7, l. 6-19; p. 8, l. 1-20; p. 18, l. 1-3 and l. 9-21; p. 19, l. 1-17; p. 20, l. 1-14; p. 23, l. 6-17; p. 25, n. 16; p. 29, l. 21; p. 30, l. 1-5; p. 33, l. 1-8 and l. 16-19; p. 34, l. 1-3; p. 37, l. 2-6 and l. 18-21; p. 38, l. 1-6; p. 40, l. 11-15, p. 42, l. 9-21; p. 43, l. 1-6. The identified portions of this document contain specific information regarding PSU and its suppliers that is competitive business information and is not publically available.
4. Columbia Exhibit No. NMP-4R accompanying the Rebuttal Testimony of Nicole M. Paloney. This Exhibit contains detailed drawings of Columbia’s facilities that present security risks if publically released.
5. Columbia Exhibit No. NMP-5R accompanying the Rebuttal Testimony of Nicole M. Paloney. This Exhibit contains detailed drawings of Columbia’s facilities that present security risks if publically released.
6. Columbia Statement No. 112-R-SUPP, Supplemental Rebuttal Testimony of Nancy J.D. Krajovic, p. 1, l. 15-24; p. 2, l. 1-13. The identified portions of this document contain information regarding a contract for the sale and purchase of natural gas between Penn State and a Natural Gas Supplier.
7. Columbia Exhibit No. NJDK-1-R-Supp accompanying the Supplemental Rebuttal Testimony of Nancy J.D. Krajovic. This Exhibit is a contract for the sale and purchase of natural gas between Penn State and a Natural Gas Supplier.