

COMMONWEALTH OF PENNSYLVANIA



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August 24, 2015

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Pennsylvania Public Utility Commission v.
Columbia Gas of Pennsylvania, Inc. 1307(f)
Docket Nos. R-2015-2469665

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply
Exceptions in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink that reads "Erin L. Gannon". The signature is written in a cursive style with a large initial "E".

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Attachment

cc: Honorable Mark A. Hoyer, ALJ
Office of Special Assistants (email only - ra-OSA@pa.gov)
Certificate of Service

211534

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
 :
 v. : Docket Nos. R-2015-2469665
 :
 Columbia Gas of Pennsylvania, Inc. :
 1307(f) Proceeding :

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Reply Exceptions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 24th day of August 2015.

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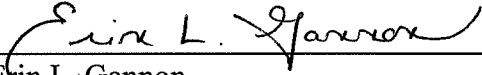
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2015-2469665
 :
 Columbia Gas of Pennsylvania, Inc. :

REPLY EXCEPTIONS OF THE OFFICE
OF CONSUMER ADVOCATE

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DATED: August 24, 2015

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I. INTRODUCTION

The Office of Consumer Advocate (OCA) submits this Reply to the Exceptions of the Natural Gas Supplier Parties, Interstate Gas Supply, Inc., Shipley Choice, LLC and Dominion Retail, Inc. (NGS Parties). The OCA urges the Commission to reject the NGS Parties' Exceptions regarding the allocation of off-system sales and capacity release credits between the Purchased Gas Commodity Charge (PGCC) and the Purchased Gas Demand Charge (PGDC).

The NGS Parties would eliminate the PGCC from consideration, and apply a fixed 100% allocation of all off-system sales and capacity release revenues to the demand costs through the PGDC. As explained below, the NGS Parties' argument is based on a misstatement of the facts and would result in PGC customers failing to be appropriately credited for the sale of natural gas that was paid for by PGC customers. The ALJ correctly found that the NGS Parties failed to provide evidence supporting their proposal to eliminate allocation of revenues to the PGCC. The NGS Parties' exceptions are based on their same failure to recognize that most transactions in the USM involve the sale of natural gas supply, which is paid for only by PGC customers, and there is no arbitrary discrimination in allocating most of the revenues to those customers. The ALJ considered the NGS Parties' position and expressly rejected it as being "fundamentally flawed" and "one-sided." For the reasons below, and those contained in the ALJ's Recommended Decision and the OCA's Reply Brief, the NGS Parties' Exceptions 1 and 2 should be denied.

The OCA notes that it did not file Exceptions to the ALJ's recommendations regarding two proposals by the OCA in rebuttal testimony responding to issues raised about the value of supply versus capacity in USM transactions. R.D. at 67. Based on surrebuttal testimony, however, the OCA has not pursued those issues and did not address them in its briefs. OCA R.B. at 1. Similarly, the OCA does not address those issues in its Reply Exceptions.

II. REPLIES TO EXCEPTIONS

Reply to NGS Parties' Exception No. 1: The ALJ's Rejection of the NGS Parties' Allocation Is Supported by the Evidence Showing That Columbia Uses PGC Supply to Generate Off-System Sales. R.D. at 65-68; NGS Exc. at 4-6.

The NGS Parties contend that the ALJ rejected its allocation proposal because it ignored the evidence provided by the NGS Parties that the value of all off-system sales transactions is based solely on Columbia's ability to employ its excess capacity resources. NGS Exc. at 5-6. The ALJ did not ignore the evidence. Rather, the ALJ reviewed the NGS Parties' testimony and determined that it was outweighed by the contrary evidence provided by the other parties, all of whom agree that value is derived from PGC supply. R.D. at 65-66 (citing NGS St. 1 at 3). The ALJ correctly rejected the NGS Parties' proposal on that basis. RD at 22-25. The ALJ stated:

The undersigned ALJ next concludes that the NGS Parties' position that total USM credits be shared equally between Columbia's gas sales customers and its CHOICE program customers through the PGDC mechanism alone 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.

In effect, the NGS Parties conclude that none of the USM credits are in any way related to activities undertaken by Columbia solely on behalf of sales customers. (NGS Parties St. No. 1, p. 15). This proposal fails to recognize all of the inter-related effects which allow Columbia to earn the margins. It is true that ". . . all or virtually all of the transactions in the USM make use of capacity assets which are generally paid for by both sales and CHOICE customers." (OSBA St. No. 1, p. 2). However, it must also be recognized that Columbia is able to earn these margins as a result of its activities on behalf of PGC sales customers because it is active in the natural gas markets, and that as shopping increases, the absolute level of the margins is likely to decline. (OSBA St. No. 1, p. 5).

The NGS Parties' proposal is one-sided. Columbia is able to make off-system sales by integrating those sales with the gas purchasing and storage operations that Columbia conducts to serve its gas sales customers. The Company's ability to earn the USM net proceeds is related, in part, to its transportation and storage contracts, as well as its efforts to procure the gas commodity.

Id. (footnotes omitted) (emphasis added).

The NGS Parties dispute that Columbia's testimony shows that the sale of PGC supply is needed to engage in off-system sales transactions. This position ignores Mr. Catron's specific statements confirming that PGC supply is a component of most USM transactions:

Mr. White asserts that the USM transactions could not be executed without the use of capacity assets. While this is substantially correct, it is also the case that most transactions could not be undertaken without a gas supply component. Columbia is always looking to identify USM transactions that produce the greatest value in margin. Absent a gas supply component, USM transactions other than capacity release that maximize margin revenue could not be completed, to the detriment of all firm customers. That gas supply component is available as a result of Columbia's management of PGC supplies.

CPA St. 1-R at 4; see also OCA St. 1-S at 3-4. The commodity assets are generated by sales customers and the revenues produced by those assets should be retained by the same subset of customers. The ALJ properly determined that there is insufficient evidence supporting the NGS Parties' recommended modification to the USM Credit allocation. Moreover, as fact finder, the ALJ is in the best position to weigh the evidentiary record and as such the Recommended Decision should be given significant weight. Accordingly, the NGS Parties' first exception should be denied.

Reply to NGS Parties' Exception No. 2: The 60/40 USM Allocation Resulting From the Methodology Recommended by the ALJ Is Supportable and Reasonable. RD at 65-67; NGS Exc. at 7-9.

The ALJ determined that the existing, fixed allocation method should be changed because it will increase the credit to sales customers as CHOICE participation levels increase and, in the ALJ's view, that will not be beneficial to competition. R.D. at 65. Instead, the ALJ adopted an alternative calculation that decreases the credit to sales customers as CHOICE participation levels increase.¹ *Id.* at 63-64. At current CHOICE participation levels, the alternative allocation results in a 60/40 sharing between the PGCC and PGDC, which is the same sharing currently in place. CPA St. 2-R at 6, 9 (59.15/40.85). The ALJ's findings, thus, do not relate to the specific *level* of sharing (60/40) but to how the allocation changes in response to CHOICE participation, and the NGS Parties are not correct that the ALJ deemed a 60/40 sharing to be unreasonable.

The NGS Parties' assert, however, that the 60/40 sharing – which will continue under the methodology recommended by the ALJ until shopping levels increase – is “unjust and unreasonable.” NGS Exc. at 8-9. First, it is a fact that PGC customers pay both commodity and demand charges through the PGC. Choice customers pay the demand charge only. OCA St. 1 at 11. For the last 19 years, during which Columbia has sharing mechanisms for marketed capacity release credits and off-system sales transactions, there has been recognition of the link between off-system sales and commodity costs. I&E St. 1 at 4; CPA St. 1 at 42-43. The NGS Parties propose to ignore the commodity component of off-system sales. R.D. at 65. If the Commission

¹ The alternative calculation bases the allocation to the PGDC on two factors: (1) the percentage of capacity release to total off system sales and capacity release based on a three-year average; and (2) the current CHOICE participation rate applied to the percentage of revenues derived from sales, options, AMAs, and exchanges based on a three-year average. R.D. at 63-64.

were to accept their proposal, Choice customers would benefit from off-system sales transactions from supply obtained by their supplier *and* benefit from off-system sales transactions from supply obtained by Columbia, although they do not pay for supply obtained by Columbia. R.D. at 65; OCA St. 1 at 11. Such a result would be arbitrary and unfair. Consistent with past practice, the allocation approved in this proceeding should recognize the commodity component of off-system sales transactions and the need for distinction in the allocation of USM Credits between Choice and PGC Customers.

NGS witness White concedes that at least some transactions may be generated only by sales customers. NGS St. 1-SR at 3. The NGS Parties argue, however, that the distinction in sharing harms competition. NGS Exc. at 8-9. In their Exceptions, the NGS Parties state:

the current disparate credit mechanism actually discourages customers from shopping by creating the illusion that PGC gas is less expensive than it really is because of the subsidy being provided by CHOICE customers to default service customers.

Id. The flaw in this position is that the NGS Parties treat the existence of any price difference as, *per se*, a subsidy. Price differences do not constitute a subsidy where there are corresponding cost differences.² To the extent that revenues are generated by different assets, which are paid for by different customers, which results in a difference in USM Credits for PGC and Choice customers, the difference is justified by differences in costs. Barasch v. Pa. P.U.C., 533 A.2d 1108 (Pa. Commw. 1997).

² See Philadelphia Suburban Water Co. v. Pa. P.U.C., 808 A.2d 1044, 1059-60 (Pa. Commw. Ct. 2002) (PSWC 2002), discussing 66 Pa. C.S. § 1304. The Court stated:

In sum, in order for a rate differential to survive a challenge brought under Section 1304 of the Public Utility Code, 66 Pa. C.S. § 1304, the utility must show that the differential can be justified by the difference in costs required to deliver service to each class.

PSWC 2002 at 1060.

Contrary to the NGS Parties' allegation, the evidence unquestionably supports crediting the PGCC with the majority of off-system sales credits because (1) PGC supply drives most off-system sales transactions and (2) the evidence shows that the Company has historically maximized its revenue by choosing transactions with a gas supply component.³ Given that the value of sales customers' contributions is *greater than* Choice customers, the current 60/40 allocation is both reasonable and fair.⁴ The NGS Parties' exception should be denied.

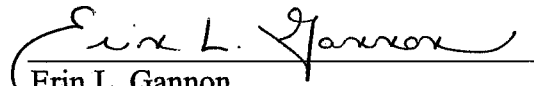
³ Over the last four years, Off-System Sales have averaged 80.9% of the total USM revenues. CPA Exh. 16 at 4.

⁴ In contrast, the NGS Parties' proposal to allocate 0/100 is fundamentally unreasonable because it would transfer PGC customer funds to Choice customers. See R.D. at 65-66; OCA M.B. at 8-12.

III. CONCLUSION

For all of the foregoing reasons, as well as those set forth in the OCA's Main and Reply Briefs, the OCA submits that the 60/40 PGCC/PGDC allocation resulting from the USM sharing formula recommended by Administrative Law Judge Hoyer should be upheld and the NGS Parties' Exception Nos. 1 and 2 should be denied.

Respectfully submitted,



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