



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

IN REPLY PLEASE  
REFER TO OUR FILE

August 24, 2015

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

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

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E)  
**Replies to Exceptions** in the above-captioned proceeding.

Copies are being served on parties as identified in the attached certificate of  
service. If you have any questions, please contact me a (717) 425-7593.

Sincerely,

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Prosecutor

Bureau of Investigation and Enforcement  
PA Attorney I.D. No. 63641

SBG/snc  
Enclosure

cc: Certificate of Service  
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John F. Coleman, Jr., Vice Chairman  
James H. Cawley, Commissioner  
Pamela A. Witmer, Commissioner  
Robert F. Powelson, Commissioner  
Chief Counsel Pankiw, Law Bureau  
Director Cheryl Walker-Davis, OSA

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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BUREAU OF INVESTIGATION AND ENFORCEMENT  
REPLIES TO EXCEPTIONS OF  
THE NATURAL GAS SUPPLIERS

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Dated: August 24, 2015

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## I. INTRODUCTION

On August 7, 2015 Administrative Law Judge Mark D. Hoyer (“ALJ Hoyer” or the “ALJ”) issued his Recommended Decision (“RD”) regarding Columbia Gas of Pennsylvania, Inc.’s (“Columbia” or “Company”) annual Section 1307(f) purchased gas cost (“PGC”) filing. In response, the Natural Gas Supplier parties (“NGS”) filed Exceptions (“NGS Exceptions” or “Exceptions”) to the ALJ’s RD taking specific exception to the ALJ’s decision regarding the allocation of Columbia’s Universal Sharing Mechanism (“USM”) revenue. The Bureau of Investigation and Enforcement (“I&E”) now files these Replies to the Exceptions of the Natural Gas Supplier Parties (“I&E Replies”). I&E witness Jeremy Hubert addressed the allocation of the USM revenue in his direct testimony,<sup>1</sup> his rebuttal testimony,<sup>2</sup> and his surrebuttal testimony.<sup>3</sup> Additionally, I&E addressed the allocation of the USM revenue in both its Main Brief (“I&E MB”) and its Reply Brief (“I&E RB”).

In the Introduction section of their Exceptions to the Recommended Decision the NGS Parties incorrectly insinuated that ALJ Hoyer chose a “middle ground”<sup>4</sup> position in his RD regarding the allocation of the USM revenue. In support of the RD, I&E asserts that nothing could be further from the truth. The RD indicates that the ALJ reviewed the positions and recommendations presented on the record by every party to this proceeding and the evidence clearly led to what the ALJ reasoned was the best USM sharing methodology. The ALJ spent 47 pages in the RD reviewing the allocation of the USM

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<sup>1</sup> See I&E St. No. 1.

<sup>2</sup> See I&E St. No. 1-R and I&E Ex. No. 1-R.

<sup>3</sup> See I&E St. No. 1-SR.

<sup>4</sup> NGS Exceptions at 1.

revenue issue.<sup>5</sup> The ALJ's conclusion was based on the substantial record evidence and represents a well-reasoned and just decision, not a "middle ground" position as alleged by the NGS Parties.

Next, the NGS Parties incorrectly state that the ALJ's position "is neither just nor reasonable" because the ALJ "expressly acknowledges that the present sharing allocation is not just or reasonable and then enshrines the same allocation percentages."<sup>6</sup> I&E disagrees with this characterization as the NGS Parties focused on the percentages and not the methodology that produces the percentages. The ALJ correctly found that the existing "mechanism" is not just or reasonable because the existing 60/40 split contained in Columbia's filing is not reasonable in light of the USM Study conducted by Columbia, and set forth in Columbia's Exhibit 16, as it is based on "fixed" percentages.<sup>7</sup> ALJ Hoyer correctly points out that the existing mechanism will result in the PGCC credit increasing as shopping increases, effectively serving as a damper on competition.<sup>8</sup> The ALJ noted the flaws in the current system when he noted that "any mechanism which increases the credit to sales customers as shopping levels increase, will obviously not be beneficial to competition."<sup>9</sup> The ALJ then recommended the new mechanism that allows for correlated shopping related movement in the percentages that, at current shopping levels, just happens to result in similar sharing percentages.<sup>10</sup> But, in no way shape or form did the ALJ enshrine the "same" (or even any) allocation percentages as the NGS Parties

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<sup>5</sup> See RD at 21-68.

<sup>6</sup> NGS Exceptions at 1 (*emphasis added*).

<sup>7</sup> See RD at 65.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> See I&E St. No. 1 at 17-20. See also I&E MB at 9-15 and I&E RB at 4-6.

incorrectly allege. To insinuate that the percentages are enshrined is to insinuate that the percentages are fixed. To the contrary, the substantial evidence presented by I&E and Columbia demonstrates that the USM methodology recommended by the ALJ will result in percentages that will rise or fall with the level of choice/shopping participation.<sup>11</sup> The NGS Parties incorrectly characterize the recommended methodology as enshrining the current percentages, which is patently false and destroys the NGS Parties' credibility as it relates to the entirety of their exceptions. The presiding ALJ recommended a methodology to be applied to the USM. Characterizing the recommendation in the RD any other way is misguided. I&E reiterates that the underlying basis for the NGS Exceptions is incorrect. Nevertheless, I&E will address and reject each individual exception propounded by the NGS parties

## II. REPLIES TO EXCEPTIONS

### A. I&E's Replies to the Exceptions Propounded by the Natural Gas Suppliers.

#### 1. I&E Reply to NGS Exception No. 1: The ALJ Properly Rejected the Natural Gas Suppliers Proposal in Favor of the USM Adjustment Mechanism Described in Columbia's Exhibit 16 and Modified by I&E.

The NGS parties argue that it was an error for the Presiding ALJ to reject the NGS parties' proposal.<sup>12</sup> The NGS Parties also argue that the RD justified adopting a USM sharing mechanism that allocates significantly more revenue to the PGC based on mere conjecture.<sup>13</sup>

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<sup>11</sup> See RD at 63, 66-67. See also I&E St. No. 1 at 17-20, I&E MB at 9-15, and I&E RB at 4-6.

<sup>12</sup> NGS Exceptions at 6.

<sup>13</sup> NGS Exceptions at 6.

I&E disagrees with the NGS assertion and reiterates that there is substantial record evidence supporting the RD. ALJ Hoyer dedicated 47 pages of the RD to reviewing the record evidence regarding the USM revenue sharing issue and analyzing every USM mechanism proposed by the various parties.<sup>14</sup> To argue that the ALJ's decision was based on mere conjecture is pure folly and the facts repudiate the NGS Parties' allegations. The ALJ's recommendation is well thought out as it was based on a thorough review of the record evidence, including the USM study conducted by Columbia as required by the Commission at Docket No. R-2014-2408268 and set forth in Columbia's Exhibit 16, as well as I&E witness Jeremy Hubert's thorough review of Columbia's USM revenue sharing mechanism and ultimate recommendation.<sup>15</sup>

Therefore, the ALJ's thorough, well-reasoned recommended decision should be affirmed and NGS Exception No. 1 should be denied. The ALJ's RD is just and reasonable, and is supported by the record evidence, the Public Utility Code, applicable regulations, and applicable case law.

**2. I&E Reply to NGS Exception No. 2: The USM Adjustment Mechanism Properly Approved by the ALJ is Just, Reasonable, and Addresses the Issues Inherent in the Current USM.**

The NGS Parties improperly contend that the USM adjustment mechanism based on Columbia's Exhibit 16 and I&E's modification, and subsequently recommended for approval in the RD, is unjust, unreasonable and fails to correct the same issues that are inherent in the current USM. The NGS parties, relying on NGS witness White's testimony, again incorrectly argue that the flaw in approving I&E's adjustment

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<sup>14</sup> See RD at 21-68.

<sup>15</sup> See I&E St. No. 1; I&E St. No. 1-R; I&E Exhibit No. 1-R; and I&E St. No. 1-SR.

mechanism is that it in no way alters the current disparity in the amount of USM revenues being allocated between PGC and CHOICE customers, but rather maintains the USM allocation at current levels of sharing, at levels that the ALJ has already deemed to be unreasonable.<sup>16</sup> Additionally, the NGS parties repeat the improper allegation that “by imposing the adjustment mechanism, the RD simply enshrines the current flawed methodology with the hope that someday if more customers shop (in spite of the economic incentives to not do so) perhaps the allocation will change.”<sup>17</sup>

Again, I&E disagrees with the NGS Parties’ position and reiterates I&E’s arguments made *supra* in response to the NGS Parties’ Introduction and NGS Exception No. 1. The substantial evidence presented by I&E and Columbia demonstrates that the USM methodology recommended by the ALJ will result in percentages that will rise or fall with the level of choice/shopping participation.<sup>18</sup> I&E witness Hubert discussed these USM revenue allocation issues at great length in his direct, rebuttal, and surrebuttal testimonies.<sup>19</sup> The ALJ reviewed the record evidence<sup>20</sup> and properly endorsed I&E witness Hubert recommended USM revenue allocation mechanism.<sup>21</sup> The NGS Parties Exceptions continue to misrepresent the recommendation as stated in the ALJ’s RD. The allocation of the USM revenue is based on the establishment of an appropriate mechanism. Subsequent allocation percentages will be fluid. To argue, as the NGS Parties do, that the allocation percentages are fixed is incorrect and must be rejected. The

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<sup>16</sup> NGS Exceptions at 7.

<sup>17</sup> NGS Exceptions at 9.

<sup>18</sup> See RD at 63, 66-67. See also I&E St. No. 1 at 17-20, I&E MB at 9-15, and I&E RB at 4-6.

<sup>19</sup> See I&E St. No. 1; I&E St. No. 1-R; I&E Exhibit No. 1-R; and I&E St. No. 1-SR.

<sup>20</sup> See RD at 21-68.

<sup>21</sup> RD at 66.



ALJ's RD is just and reasonable, and is supported by the record evidence, the Public Utility Code, applicable regulations, and applicable case law. Therefore, NGS Exception No. 2 should be denied.

**3. I&E Reply to NGS Exception No. 3: The ALJ Properly Rejected the NGS Parties' Request for a Study.**

The NGS parties argue that there is an appearance that CHOICE customers are subsidizing default service (PGC) customers through the PGDC.<sup>22</sup> The NGS Parties argue that it was improper for the ALJ to reject the request for Columbia to perform a study to determine the financial responsibility for all of the PGDC capacity assets on a customer specific average cost per unit basis.<sup>23</sup>

I&E asserts that the argument that there is the "appearance" of a subsidy is the self-serving position of the NGS Parties and is not supported by the record evidence. I&E witness Hubert thoroughly addressed the NGS witness testimony throughout this proceeding regarding this issue,<sup>24</sup> and the NGS argument presented in its Exceptions remains unpersuasive. The ALJ correctly concluded that the study requested by the NGS parties is unreasonable and unnecessary.<sup>25</sup> Furthermore, the ALJ properly concluded that an analysis of the use of Columbia's retained pipeline capacity would reveal no additional information that the parties do not currently have at their disposal because Columbia already has explained that all of its pipeline capacity is used to meet its

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<sup>22</sup> NGS Exceptions at 9.

<sup>23</sup> NGS Exceptions at 10-11.

<sup>24</sup> See I&E St. No 1-R at 7-13; I&E St. No. 1-SR at 1-5.

<sup>25</sup> RD at 83.

obligation of providing firm service to CHOICE and PGC sales customers and to ensure system reliability.<sup>26</sup>

The ALJ's recommended decision is just and reasonable, and is supported by the record evidence, the Public Utility Code, applicable regulations, and applicable case law. Therefore, NGS Exception No. 3 should be denied.

### III. CONCLUSION

The substantial evidence presented by I&E and Columbia demonstrates that the USM methodology recommended by the ALJ will result in percentages that will rise or fall with the level of choice/shopping participation.<sup>27</sup> The NGS Parties' Exceptions misrepresent the recommendation as stated in the ALJ's RD. The allocation of the USM revenue is based on the establishment of an appropriate mechanism. Subsequent allocation percentages will be fluid. To argue, as the NGS Parties do, that the allocation percentages are fixed is incorrect and must be rejected. The ALJ's RD is just and reasonable, and is supported by substantial record evidence.

For the reasons stated above, as well as in I&E's Main Brief and Reply Brief, which are incorporated herein by reference, I&E respectfully submits the NGS Parties failed to present evidence sufficient to support its claims that the ALJ's RD is improper, unjust and unreasonable. Therefore all of the NGS Exceptions should be denied.

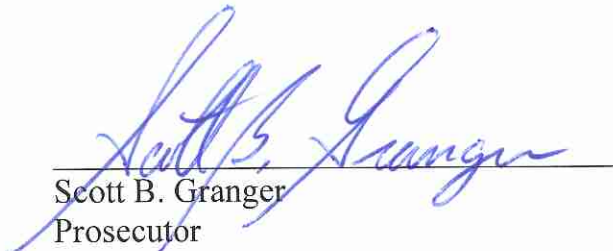
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<sup>26</sup> RD at 83.

<sup>27</sup> See RD at 63, 66-67. See also I&E St. No. 1 at 17-20, I&E MB at 9-15, and I&E RB at 4-6.

Finally, I&E urges the Commission to adopt the Administrative Law Judge's well-reasoned recommendations set forth in the Recommended Decision. The ALJ's recommendations are just, reasonable, and proper.

Respectfully submitted,



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Dated: August 24, 2015

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**CERTIFICATE OF SERVICE**

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

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