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File #: 160697

September 11, 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, etc.**

Dear Secretary Chiavetta:

Enclosed please find the Reply Brief of Columbia Gas of Pennsylvania, Inc. in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

Michael W. Hassell

MWH/skr  
Enclosure

cc: Certificate of Service  
Honorable Mary D. Long

## CERTIFICATE OF SERVICE

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).

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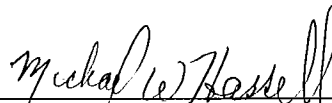
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket Nos. R-2015-2468056
Office of Consumer Advocate	:	C-2015-2473682
Office of Small Business Advocate	:	C-2015-2477816
Pennsylvania State University	:	C-2015-2476623
Columbia Industrial Intervenors	:	C-2015-2477120
G. Thomas Smeltzer	:	C-2015-2482395
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	

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**REPLY BRIEF OF  
COLUMBIA GAS OF PENNSYLVANIA, INC.**

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**TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:**

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## I. INTRODUCTION

Pursuant to the procedural schedule adopted in this proceeding, Columbia Gas of Pennsylvania, Inc. (“Columbia” or the “Company”), the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), the Office of Consumer Advocate (“OCA”) and the Coalition for Affordable Utility Services in Pennsylvania (CAUSE-PA) filed Main Briefs in this proceeding on August 27, 2015. Also on August 27, 2015, Columbia filed a Joint Petition for Partial Settlement, which resolved all but one issue in this base rate proceeding.<sup>1</sup> The Main Briefs of Columbia, I&E, OCA and CAUSE-PA addressed the sole issue reserved for litigation in this base rate proceeding: whether Columbia should end immediately its recovery of \$375,000 through Rider Universal Service Program (“USP”) that is used as part of the funding for its Hardship Fund. This issue arose as a result of the Commission’s July 8, 2015 order concerning Columbia’s Universal Service and Energy Conservation Plan. *Columbia Gas of Pennsylvania, Inc. Universal Service and Energy Conservation Plan for 2015-2018 Submitted in Compliance with 52 Pa. Code § 62.4*, Docket No. M-2014-2424462, *Final Order* (July 8, 2015) (“USECP Order”).

In their Main Briefs, the OCA and CAUSE-PA recommended that Columbia should temporarily continue recovery of the \$375,000 Hardship Fund contribution through Rider USP, while promptly undertaking new efforts to seek additional sources of voluntary hardship funding. (OCA M.B., p. 8; CAUSE-PA M.B., p. 13). Columbia supports the continued recovery of the \$375,000 Hardship Fund contribution while it ramps up fundraising efforts and works toward seeking additional voluntary program

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<sup>1</sup> Columbia also filed a separate settlement between Columbia and the Pennsylvania State University on August 27, 2015.

funding prior to its next base rate case. (Columbia M.B., p. 12). In its Main Brief, I&E argued for the immediate removal of the \$375,000 Hardship Fund contribution from Rider USP, which Columbia opposes for the reasons explained in Columbia's Main Brief and in this Reply Brief. (I&E M.B., p. 7; Columbia M.B., pp. 11-13). I&E also asserts in its Main Brief that, if it was CAUSE-PA's intent to require Columbia to temporarily provide the \$375,000 to the Hardship Fund using voluntary resources, I&E would not oppose such a requirement. (I&E M.B., pp. 5, 10).

Columbia hereby files its Reply Brief in response to the Main Brief filed by I&E.

## II. ARGUMENT

### A. **I&E'S CONTENTION THAT THE ONLY RECOMMENDATION THAT COMPLIES WITH THE USECP ORDER IS ONE THAT IMMEDIATELY REMOVES THE \$375,000 FROM COLUMBIA'S RIDER USP IS NOT SUPPORTED BY THE USECP ORDER.**

I&E asserts that its recommendation that the \$375,000 be immediately removed from Rider USP is the only recommendation that complies with the USECP Order. Nothing in the USECP Order directs this.

As explained in Columbia's, OCA's and CAUSE-PA's Main Briefs, if the Commission had decided in the USECP Order that the \$375,000 was to be immediately removed from Rider USP, it would have so directed in the USECP Order. (Columbia M.B., pp. 10-11, OCA M.B., pp. 6-7; CAUSE-PA M.B., pp. 9-11). It is not logical to presume that the Commission would have directed that an issue be taken up in the rate case if the issue had already been decided by the Commission. Therefore, the logical conclusion is that the Commission wanted to have a further examination of the issue, including the effect of removal of the \$375,000 upon low income customers who rely

upon the Hardship Fund and the time it would take to develop additional sources of voluntary funding that could replace the current \$375,000.

I&E's position is that it is irrelevant whether additional sources of voluntary funding can be developed immediately, or what would be the effect on low income customers of an immediate cutoff of the \$375,000. However, the Commission has recognized that it is important to balance the needs of low income customers and the interest of customers who pay the cost of low income programs. Nothing in the USECP Order indicates that the needs of low income customers are now to be an irrelevant consideration. The Commission directed in the USECP Order that parties address the issue of continued recovery of \$375,000 through Rider USP in the current base rate proceeding, and at no point in the USECP Order did the Commission state that an immediate cessation of the \$375,000 recovery through Rider USP was the only acceptable resolution of the issue.

I&E's claim that only its recommendation complies with the USECP Order is incorrect and should be rejected.

**B. COLUMBIA CANNOT BE ORDERED TO VOLUNTARILY PROVIDE A \$375,000 CONTRIBUTION TO THE HARDSHIP FUND.**

In the conclusion of I&E's Main Brief, I&E speculates, "to the extent that it is the intention of CAUSE-PA for Columbia to provide the \$375,000 [Hardship Fund contribution] using voluntary resources until alternative fundraising programs can be found, then I&E would have no objection and CAUSE-PA's recommendation could be found in compliance with the Commission's clear directive." (I&E M.B., p. 10). I&E frames this proposal as possibly being intended by CAUSE-PA, but I&E does not

affirmatively recommend that the Commission impose such a requirement. (I&E M.B., p. 10).

Initially, Columbia observes that at no point in testimony or in its Main Brief does CAUSE-PA assert that Columbia should be ordered to increase its voluntary contribution to the Hardship Fund. Therefore, on this basis alone, I&E's speculation that this may have been CAUSE-PA's intent should be disregarded. In any event, I&E's position that it would not oppose a recommendation that Columbia be directed to "volunteer" a \$375,000 contribution to the Hardship Fund should be rejected because it violates established Commonwealth Court precedent, which provides that a utility cannot be required to absorb a prudent cost validly incurred as a result of complying with a Commission order. *Columbia Gas of Pennsylvania, Inc. v. Pa. P.U.C.*, 613 A.2d 74 (Pa. Cmwlth. 1992); *Butler Township Water Co. v. Pa. P.U.C.*, 473 A.2d 219 (Pa. Cmwlth. 1982).

If a utility incurs a prudent expense as a direct result of abiding by a Commission order, the utility must be permitted to recover that expense at the first reasonable opportunity. *Columbia Gas*, 613 A.2d at 79-80. In *Columbia Gas of Pennsylvania, Inc. v. Pa. P.U.C.*, Columbia incurred \$4.5 million in uncollectible accounts expense as a result of a Commission directive that Columbia and other gas and electric utilities offer budget plus payment plans to payment troubled customers as a means to reduce the risk of termination of utility service. (*Id.* at 79). Under a budget plus payment plan, a customer with an arrearage could avoid termination by agreeing to pay the monthly portion of the estimated annual cost of service plus a monthly payment toward the arrearage. (*Id.*). Following Columbia's implementation of the budget plus program, the total arrearages of budget plus customers grew to over \$10 million. (*Id.*). Columbia was

informed by external auditors that generally accepted accounting principles required \$4.5 million in arrearages of the most payment troubled customers to be written off as bad debts absent an assured means of recovery. (*Id.*).

Columbia proposed to recover the \$4.5 million in bad debts. (*Id.*). The Commission held that Columbia was entitled to recover as an expense only the prospective arrearages of budget plus customers, or \$1.125 million. (*Id.* at 79-80). The Commonwealth Court reversed, holding that Columbia could not be denied recovery of the full \$4.5 million in bad debts that were accrued as a result of Columbia's compliance with the Commission's directive to establish a budget plus program. (*Id.* at 80). Columbia implemented the budget plus program "only pursuant to the direction of the Commission"; therefore, the full amount of the resulting expense was recoverable. (*Id.*).

Like the uncollectible accounts expense incurred by the utility as a result of the Commission's mandate that the utility implement a budget plus program in *Columbia Gas of Pennsylvania, Inc.*, Columbia must be permitted recovery of any contribution to the Hardship Fund that it is required to provide. Columbia currently provides voluntary contributions to the Hardship Fund in the form of a dollar for dollar match for voluntary ratepayer contributions. (Columbia M.B., p. 8). However, Columbia cannot be *ordered* to "volunteer" a contribution to the Hardship Fund. If Columbia were directed to provide a \$375,000 Hardship Fund contribution, or to make up the difference between the \$375,000 contribution currently recovered through Rider USP and the amount of additional Hardship Funding it secures through increased fundraising efforts, the contribution would no longer be "voluntary," and Columbia should be entitled to recover the full amount of the contribution. See *Columbia Gas*, 613 A.2d at 79-80.

The Commission cannot deny a utility recovery of prudently incurred expenses for general policy reasons. *Butler Township Water Co.*, 473 A.2d at 221-222. See also *T.W. Phillips Gas & Oil Co. v. Pa. P.U.C.*, 474 A.2d 355, 366 (Pa. Cmwlth. 1984). In *Butler Township Water Co. v. Pa. P.U.C.*, the utility claimed total rate case expense of \$37,989. (*Id.* at 221). The Commission allowed the utility to recover only half of this amount, citing two general policy reasons: (1) both shareholders and ratepayers should bear the costs of securing a rate increase since both groups benefit from rate increases; and (2) allowing only partial recovery will reduce instances of filing repeated or excessive rate claims and relitigating previously settled matters. (*Id.*). The Commonwealth Court reversed, holding that, absent a factual finding that the rate case expenses were imprudent or excessive, the utility could not be denied recovery based on general policy conclusions. (*Id.* at 221).

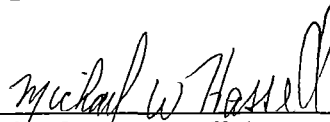
Although I&E has failed to set forth a single reason to support requiring Columbia to volunteer a Hardship Fund contribution, as the Commonwealth Court established in *Butler Township Water Co.*, Columbia cannot be denied recovery of a prudently incurred expense for general policy reasons. A Commission directive that Columbia provide a required contribution to the Hardship Fund would constitute a valid expense. Therefore, Columbia could not be required to “volunteer” a contribution to the Hardship Fund without allowance for recovery of the contribution.

I&E’s assertion that it would not oppose a requirement that Columbia provide \$375,000 to offset removal of the \$375,000 recovered through Rider USP is improper and should be rejected.

**III. CONCLUSION**

For the foregoing reasons, and as further explained in Columbia’s Main Brief, Columbia respectfully requests that Columbia be allowed the continued recovery of \$375,000 through its Rider USP until the conclusion of its next rate case, while Columbia undertakes efforts to secure additional sources of voluntary funding for its Hardship Fund, and that the Bureau of Investigation and Enforcement’s proposals be denied.

Respectfully submitted,



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