



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

IN REPLY PLEASE
REFER TO OUR FILE

October 23, 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.
Docket No. R-2015-2468056

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E)
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 at (717) 425-7593.

Sincerely,

Scott B. Granger
Prosecutor

Bureau of Investigation and Enforcement
PA Attorney I.D. #63641

SBG/snc
Enclosure

cc: Certificate of Service
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John F. Coleman, Jr., Vice Chairman
Andrew G. Place, 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	:	Docket No.: 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-2015-2484454
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	

**EXCEPTIONS OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

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Dated: October 23, 2015

TABLE OF CONTENTS

I. INTRODUCTION 1

II. I&E EXCEPTIONS 4

 A. I&E Exception No. 1: The ALJ’s recommendation that the Commission allow the continued recovery of \$375,000 in Hardship Fund funding through mandatory contributions using Columbia’s Rider USP while deferring resolution of this matter to a future base rate case does not fulfill the Commission’s directive to “address” this issue in this current base rate proceeding. R. D. at 58-59. 4

I. INTRODUCTION

A. History of the Proceeding

On March 19, 2015, Columbia Gas of Pennsylvania, Inc. (“Columbia” or “Company”) filed Supplement No. 226 to Tariff Gas Pa. P.U.C. No. 9 (“Supplement No. 226”) to become effective May 18, 2015. Supplement No. 26 contained proposed changes in rates, rules, and regulations calculated to produce \$46.2 million (8.63%) in additional annual revenues based upon a pro forma fully projected future test year (“FPFTY”) ending December 31, 2016.

The Bureau of Investigation and Enforcement (“I&E”) entered its appearance in this proceeding, while the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), the Columbia Industrial Intervenors (“CII”)¹ and the Pennsylvania State University (“PSU”) filed Complaints. The OCA Complaint was filed at Docket No. C-2015-2473682. The OSBA Complaint was filed at Docket No. C-2015-2477816. CII’s Complaint was filed at Docket No. C-2015-2477120 and PSU’s Complaint was filed at Docket C-2015-2476623. All of the Complaints were consolidated in this rate proceeding for hearing and disposition.

Petitions to Intervene were filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), joint petitioners Interstate Gas Supply, Inc. d/b/a IGS Energy, Shipley Choice LLC d/b/a Shipley Energy and Dominion Retail, Inc. d/b/a Dominion Energy Solutions (“NGS Parties”). In addition, the Retail Energy Supply Association (“RESA”) filed a Petition to Intervene.

¹ Members of the CII include the following: Glen-Gery Corporation and Knouse Foods Cooperative, Inc.

On April 9, 2015, the Commission issued an Order initiating an investigation of Columbia's proposed general rate increase and suspending Columbia's Supplement No. 226 until December 18, 2015, unless permitted by Commission Order to become effective at an earlier date.

At the same time the investigation in Columbia's current base rate case was proceeding, the Commission was moving forward with its evaluation of Columbia's Universal Service and Energy Conservation Plan for 2015-2018 that was filed back on June 2, 2014 at Docket No. M-2014-2424462 (the "USECP Proceeding"). The subject of funding the Hardship Fund through mandatory contributions through Columbia's Rider USP was discussed at length and addressed in that proceeding. The Commission issued a Tentative Order ("USECP Tentative Order") in the USECP Proceeding on March 26, 2015 in which the Commission invited Comments from interested parties on whether monies for Hardship Fund grants should be recovered, and if so, how.² All of the relevant parties hereto, Columbia, OCA, and CAUSE-PA, were also parties in the USECP Proceeding and filed Comments and/or Reply Comments in that proceeding.³ On July 8, 2015, after reviewing all Comments provided by the interested parties, the Commission issued its Final Order ("USECP Final Order"). The Commission specifically addressed the Hardship Fund funding through the Rider USP in the USECP Final Order stating:

² USECP Tentative Order at 28.

³ USECP Final Order at 36-39. *See also* I&E M.B. at 6-7.

Although funding a Hardship Fund program through employee, customer, and stockholder contributions is less consistent than a flat charge added to Columbia's USP Rider, other NGDCs and the EDCs are able to fund their programs using only voluntary resources. We are not persuaded that Columbia cannot do so as well.

We agree with the OCA that the Commission and relevant parties should address this issue through Columbia's current [this] base rate proceeding at Docket No. R-2015-2468056.⁴

All of the parties in the USECP Proceeding had ample opportunity under Commission regulations to file exceptions to the USECP Final Order or to petition for clarification or reconsideration. However, none of the parties took any action following the USECP Final Order to address any perceived ambiguity and they cannot now ask for redress from the Commission's USECP Final Order in this proceeding.⁵ It should also be noted that direct testimony in this proceeding had already been submitted by the time the USECP Final Order was issued. Therefore, in response to the Commission's USECP Final Order; I&E, OCA and CAUSE-PA witnesses made recommendations regarding the recovery of the Hardship Fund funding in their surrebuttal testimonies, and the Company addressed the issue in its rejoinder testimony.

Ultimately the parties agreed to a partial settlement and the Rider USP Hardship Fund funding issue was carved out of the Joint Petition for Partial Settlement and reserved for litigation. An evidentiary Hearing was held August 4, 2015 in Harrisburg, PA. During the course of the evidentiary Hearing I&E introduced the following written testimony relevant to the Hardship Fund funding issue reserved for litigation:

- I&E Statement No. 2-R – the Rebuttal Testimony of Christopher Keller.

⁴ USECP Final Order at 39-40.

⁵ I&E M.B. at 6-7.

- I&E Statement No. 2-SR – the Surrebuttal Testimony of Christopher Keller.

I&E submitted its Main Brief on August 27, 2015 (“I&E M.B.”). Columbia, the OCA, and CAUSE-PA also submitted Main Briefs that same day. I&E submitted its Reply Brief on September 11, 2015 (“I&E R.B.”). Columbia, the OCA, and CAUSE-PA also submitted Reply Briefs that same day.

The Recommended Decision (“R.D.”) of ALJ Long was served on the parties by the Secretary’s Bureau on October 13, 2015. The R.D. made recommendations regarding the Hardship Fund funding issue⁶ as well as the issues set forth in the Joint Petition for Partial Settlement.

I&E now respectfully files this exception to the Recommended Decision of ALJ Long.

II. I&E EXCEPTIONS

A. I&E Exception No. 1: The ALJ’s recommendation that the Commission allow the continued recovery of \$375,000 in Hardship Fund funding through mandatory contributions using Columbia’s Rider USP while deferring resolution of this matter to a future base rate case does not fulfill the Commission’s directive to “address” this issue in this current base rate proceeding. R. D. at 58-59.

In her Recommended Decision, ALJ Long noted that while CAUSE-PA agrees that Columbia could choose to voluntarily provide \$375,000 in hardship funding,⁷ ALJ Long recommended that the Commission adopt the proposal of OCA to allow the continued recovery of \$375,000 in Hardship Fund funding through Columbia’s Rider

⁶ R. D. at 53-59.

⁷ R. D. at 58.

USP while Columbia undertakes efforts to secure additional sources of voluntary funding for its Hardship fund.⁸ I&E excepts to ALJ Long's recommendation.

The ALJ correctly states that:

Accordingly, on July 8, 2015, in **resolution** of the question concerning the cost recovery of the Hardship Fund, the Commission stated:

Although funding a Hardship Fund program through employee, customer and stockholder contributions is less consistent than a flat charge added to Columbia's USP Rider, other [natural gas distribution companies] and the [electric distribution companies] are able to fund their programs using only voluntary resources. We are not persuaded that Columbia cannot do so as well.

We agree with OCA that the Commission and relevant parties should address this issue through Columbia's current base rate proceeding at Docket No. R-2015-2468056.⁹

As noted by the ALJ, the Commission was clear in stating its **resolution** that the Commission was not persuaded by Columbia's argument that Columbia could not fund its Hardship Fund through voluntary resources.¹⁰ The Commission noted that every other NGDC and EDC is able to fund their programs through voluntary resources.¹¹ Therefore, it is logical to conclude that the current use of the RIDER USP, a "mandatory" resource, to collect the \$375,000 of Hardship Fund funding is unacceptable.

⁸ R. D. at 59.

⁹ R. D. at 55 (*emphasis added*), (*citing* USECP Final Order at 39-40).

¹⁰ USECP Final Order at 39-40.

¹¹ *Id.*

The ALJ cites to Columbia's argument 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.¹² While this regulatory argument is accurate, this argument is a red herring as the current method of funding the Hardship Fund through the Rider USP is also not "voluntary," and the Commission stated its rejection of this mandatory funding from ratepayers through the Rider USP.¹³ Columbia is merely attempting to camouflage the issue by flipping the subject of responsibility. Apparently, according to Columbia's argument, it is acceptable to require ratepayers to voluntarily contribute through mandatory contributions collected through Columbia's Rider USP (an oxymoron in its own right), but it is not acceptable for Columbia to voluntarily reserve \$375,000 of the \$24.2 million it is receiving in rates to fund the Hardship Fund program for the benefit of its most needy ratepayers.

The ALJ correctly notes that both OCA and CAUSE-PA provided testimony that to remove the hardship funding from Rider USP without having other sources of funding in place would negatively impact customers who rely on the services provided by the Hardship Fund.¹⁴ The ALJ also correctly notes that witnesses for OCA and CAUSE-PA

¹² R. D. at 58 (*citing* Columbia Reply Brief at 4-5).

¹³ I&E M. B. at 6-7, (*citing* USECP Final Order).

¹⁴ R. D. at 56.

both opined that to remove the funding from Rider USP without having alternate funding in place would negatively jeopardize the availability of resources to those who need it.¹⁵

In an effort to bring all of the above to its logical conclusion, I&E offers that the Commission should, based on the Commission's rejection of Columbia's arguments in the USECP proceeding, direct Columbia to discontinue the collection of the \$375,000 in Hardship Fund funding through mandatory collections using Columbia's Rider USP. This, as Columbia argued and the ALJ noted, is the logical regulatory limit of what the Commission should order in this proceeding.¹⁶

Beyond I&E's recommendation stated above, Columbia controls the ultimate resolution of this issue. If Columbia agrees with the OCA and CAUSE-PA, and Columbia feels that the removal of the \$375,000 from the Hardship Fund would negatively jeopardize the availability of resources to those who need it,¹⁷ then Columbia has the ability to choose to "voluntarily" provide the \$375,000 in Hardship Fund funding until Columbia finds other voluntary funding to replace its voluntary contribution. Or, Columbia can choose to do away with the \$375,000 of Hardship Fund funding altogether. To simply allow, as the ALJ concluded and the other parties recommended, the mandatory funding through the Rider USP to continue does not address the Commission's clear directive to address the mandatory Rider USP funding issue in this current base rate case.

¹⁵ R. D. at 55.

¹⁶ R. D. at 57-58. *See also* Footnote 12, *supra*.

¹⁷ R. D. at 55.

Furthermore, to adopt the rationale put forth by Columbia to allow the mandatory Rider USP funding to continue would effectively hold the Rider USP ratepayers captured until Columbia finds voluntary resources to replace the mandatory Rider USP funds, which theoretically may never occur. Remember, Columbia has been collecting the mandatory funds through the Rider USP since Columbia's 2012 base rate case (the end of the Citizen's Energy Corporation contract).¹⁸ Three years has passed since the end of the Citizen's Energy Corporation contract and Columbia has still not found voluntary resources to replace the mandatory funding through the Rider USP. Arguably, Columbia's search for voluntary resources to replace the mandatory Rider USP funds could continue in perpetuity. Conceivably, Columbia could raise this same argument, "not enough time," in its next base rate case as well.

Therefore, in consideration of all of the above, I&E respectfully represents that the ALJ's recommendation that the Commission allow the continued recovery of \$375,000 in Hardship Fund funding through mandatory contributions using Columbia's Rider USP while deferring resolution of this matter to a future base rate proceeding does not fulfill the Commission's directive to "address" this issue in this current base rate proceeding. Instead, the Commission should order Columbia to discontinue the contributions of \$375,000 to its Hardship Fund funding through the use of its Rider USP. When and how Columbia replaces the relatively small sum of \$375,000 in Hardship Fund funding is entirely up to Columbia's discretion.

¹⁸ R. D. at 53-54.

To summarize, the Commission received and considered the comments of the relevant parties regarding this issue in Columbia's USECP Proceeding.¹⁹ The Commission stated that it was not persuaded by Columbia's argument that Columbia cannot fund their hardship fund program using only voluntary resources.²⁰ The Commission directed the relevant parties to address this issue in this current base rate case.²¹ No party filed exceptions to the USECP Final Order or petitioned for clarification or reconsideration.²² I&E has no burden to offer record evidence in this current base rate proceeding to support that which the Commission has already determined.²³ Columbia, OCA and CAUSE-PA all recommended delaying resolution of this issue by pushing it to a future base rate case.²⁴ ALJ Long now recommends that the Commission allow the continued recovery of the \$375,000 in Hardship Fund funding through mandatory contributions using Columbia's Rider USP for an undetermined period of time into the future.²⁵ I&E contends that the ALJ's recommendation does not fulfill the directive stated by the Commission in its USP Final Order and the I&E exception should be accepted.

¹⁹ I&E M.B. at 2, 6-7 (*citing* USP Final Order).

²⁰ I&E M.B. at 2, 6 (*citing* USP Final Order).

²¹ *Id.*

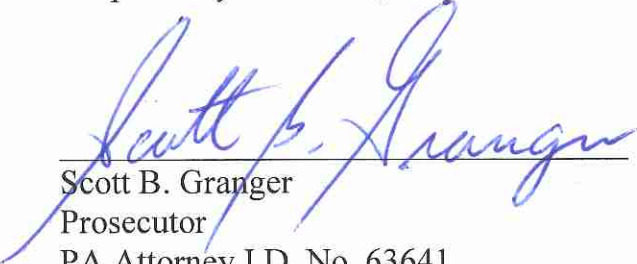
²² I&E M.B. at 6.

²³ USECP Final Order at 36-40. *See also* R. D. at 53-57.

²⁴ R. D. at 56-58.

²⁵ R. D. at 58-59.

Respectfully submitted,



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Dated: October 23, 2015

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Exceptions** dated October 23, 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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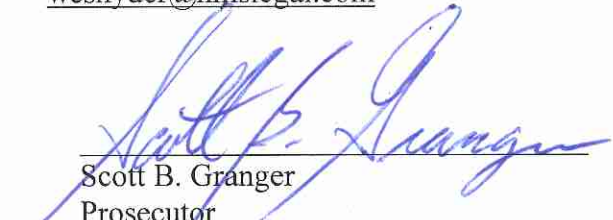
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