

COMMONWEALTH OF PENNSYLVANIA



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October 29, 2015

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Reply Exceptions in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script that reads "Amy E. Hirakis".

Amy Hirakis  
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Attachment

cc: Honorable Mary D. Long, ALJ  
Certificate of Service

213604

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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REPLY EXCEPTIONS  
OF THE OFFICE OF CONSUMER ADVOCATE

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## I. INTRODUCTION

On March 19, 2015, Columbia Gas of Pennsylvania, Inc. (Columbia or the Company) filed Supplement No. 226 to Tariff Gas - Pa. P.U.C. No. 9, seeking Commission approval of rates and rate changes that would increase base rate revenues by \$46.2 million. Prior to filing the instant rate case, on June 2, 2014, Columbia submitted its proposed Universal Service and Energy Conservation Plan (USECP) for 2015-2017, at Docket Number M-2014-2424462.<sup>1</sup> 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 entered July 8, 2015). (USECP Order) at 1. On March 26, 2015, the Commission entered a Tentative Order in the USECP proceeding, inviting interested parties to submit Comments on whether funds for the Company's Hardship Fund<sup>2</sup> should be recovered through the Company's Universal Service Program Rider (Rider USP). USECP Order at 39. Columbia, the OCA and CAUSE-PA filed comments and/or reply comments to the Company's proposed USECP. Id. at 1. On July 8, 2015, the Commission entered the USECP Order in the USECP proceeding, directing the parties in the instant base rate proceeding to address the issue of whether funds for the Hardship Fund should continue to be recovered through the Rider USP.<sup>3</sup> Id. at 40. On July 28, 2015, the OCA, I&E and CAUSE-PA submitted surrebuttal testimony in the base rate proceeding, raising the issue of whether Columbia should recover Hardship Fund dollars through its Rider USP. The OCA's witness, Roger D. Colton,

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<sup>1</sup> On June 27, 2014, the Commission issued a Secretarial Letter that modified the USECP filing schedules for all energy utilities. Under the modified USECP filing schedule, Columbia's proposed USECP would extend to 2018. On January 16, 2015, Columbia submitted a revised USECP that covered 2015 through 2018.

<sup>2</sup> Columbia's Hardship Fund is a program that assists residential customers facing temporary financial difficulty with paying their utility bills. Typically, hardship funds are funded through voluntary donations and shareholder contributions. Since 2012, Columbia has recovered \$375,000 per year through the Rider USP for its Hardship Fund by virtue of a settlement in 2012.

<sup>3</sup> In its Exceptions I&E states that "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." I&E Exc. at 3. OCA submits that there is no ambiguity in the USECP Order.

recommended that Columbia be permitted to continue recovering hardship funds through its Rider USP until its next base rate case so that Columbia has time to replace the Hardship Fund dollars that will be lost once they are removed from the rider. Columbia then submitted rejoinder testimony on July 31, 2015, responding to the surrebuttal testimonies addressing this issue.

On August 27, 2015, the parties filed a Joint Petition for Partial Settlement (Settlement). The Settlement reserved one issue for litigation – whether Columbia should end immediately its practice of recovering hardship funds through its Universal Service Program Rider (Rider USP).<sup>4</sup> In testimony and its briefs, the OCA recommended that the Company be permitted to temporarily continue its practice of collecting \$375,000 through its Rider USP until its next base rate case, with the Company being directed to include in its next filing a plan regarding this issue. OCA M.B at 5, 9; OCA. R.B. at 2-6; OCA St. 4-S at 11. The OCA also recommended that Columbia be directed to ramp up its fundraising efforts to increase the voluntary funds available for the Hardship Fund. Id. Columbia and CAUSE-PA also recommended that the recovery temporarily continue. See CAUSE-PA St. 1-SR at 9-10; Columbia St. 112-RJ at 4. I&E recommended that the practice end immediately. See I&E St. 2-SR at 18-19.

On September 29, 2015, the presiding Administrative Law Judge, Mary D. Long (ALJ Long), issued a Recommended Decision on the Hardship Fund issue. ALJ Long recommended as follows:

In sum, I recommend that the Commission adopt the proposal of OCA to temporarily allow the continued recovery of \$375,000 in Hardship Fund funding through Columbia's Rider USP while Columbia undertakes efforts to secure additional sources of voluntary funding for its Hardship Fund. Columbia should have a plan in place to replace the funding from voluntary sources and should address the alternative recovery of the funding in its next base rate proceeding.

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<sup>4</sup> Only four parties to this proceeding submitted testimony and briefs on the Hardship Fund issue – the OCA, Columbia, CAUSE-PA and the Bureau of Investigation and Enforcement (I&E).

BIE's proposal to immediately end recovery of the \$375,000 in hardship funding through Columbia's Rider USP should be rejected.

RD at 58-59.

On October 23, 2015, I&E filed an Exception to ALJ Long's Recommended Decision. I&E seeks to have the Commission order Columbia to immediately stop recovering the hardship funds through the Rider USP, arguing that the ALJ's recommendation "does not fulfill the directives stated by the Commission in its USP Final Order." I&E Exc. at 9. The Office of Consumer Advocate submits this Reply to I&E's Exception.

As explained below, I&E's argument for immediately ending the hardship funding through the Rider USP is based on a misinterpretation of the USECP Order and a mischaracterization of ALJ Long's recommendation. I&E argued that the Commission's USECP Order directs that this funding mechanism is to end through this base rate proceeding. The ALJ correctly found, however, that the USECP contained no such directive. R.D. at 56. For the reasons below, and those contained in the ALJ's Recommended Decision and the OCA's Main Brief and Reply Brief, the OCA urges the Commission to reject I&E's Exception and adopt ALJ Long's Recommended Decision.

## II. REPLY TO EXCEPTIONS

Reply to I&E's Exception No. 1: The ALJ recommendation is consistent with the Commission's USECP Order and based on record evidence, and thus should be adopted.

### A. I&E Misinterprets the Directive in the USECP Order.

In its Exception, I&E argued that the ALJ's Recommended Decision should not be adopted because it does not comply with the Commission's directive in the USECP Order to remove the hardship funding from the Rider USP. The portion of the USECP Order that I&E

asserts directs that the recovery of the \$375,000 in hardship funds through the Rider USP end immediately is as follows:

*Resolution:* 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 OCA that the Commission and relevant parties should address this issue through Columbia's current base rate proceeding at Docket No. R-2015-2468056.

USECP Order at 39-40.

I&E stated that because the Commission was not persuaded that Columbia could not fund its Hardship Fund programs through voluntary resources, "it is logical to conclude that the current use of the Rider USP ... is unacceptable." I&E Exc. at 5. The ALJ rejected I&E's logic and interpretation of the USECP Order. ALJ Long stated:

[R]ead in context, I do not believe the Commission mandated the immediate removal of the hardship funding from Rider USP. The Commission simply directed that the parties "address" the issue in this proceeding. Read in context with the language of the Tentative Order that "*we are not seeking to amend Columbia's funding mechanism* for its Hardship Fund program at this time ...." the Commission was instead directing the parties to discuss other ways to secure funding and develop a plan for the removal of the hardship funding from Rider USP. This interpretation is further bolstered by the fact that the funding mechanism issue was not among the lists of amendments that the Commission directed Columbia make to its universal service plan, nor was Columbia directed to remove the hardship funding from Rider USP in the ordering paragraphs of the USECP Order. Had the Commission intended for the immediate removal of the hardship funding from Rider USP, it would not have directed the parties to the base rate proceeding to "address" the issue, it would have directed Columbia to remove the funding from its tariff.

RD at 56. (Emphasis in original)(Citations removed).

The OCA submits that the ALJ's conclusion that the USECP Order does not direct that the hardship funds be removed immediately from the Rider USP is correct. As the OCA stated in its Main Brief and Reply Brief, the USECP Order simply directed the parties to this rate base

proceeding to “address” whether Columbia should continue recovering Hardship Funds from the USP Rider. See OCA M.B. at 6-7; OCA R.B at 3; USECP Order at 40. As ALJ Long noted, had the Commission determined that Columbia should end its practice of collecting Hardship Funds through the USP Rider in the USECP proceeding, the Commission would have specifically directed Columbia to make that change. The OCA submits that the USECP Order does not dictate how the parties are to address the hardship fund issue in the base rate proceeding, and as such, I&E’s interpretation of the USECP Order should be rejected. As I&E’s incorrect interpretation is the basis of its Exception to the Recommended Decision, I&E’s Exception should be denied and the ALJ’s recommendation regarding Columbia’s Hardship Fund should be adopted.

B. The ALJ’s Recommendation Fulfills the Commission’s Directive to Address Columbia’s Hardship Fund in this Proceeding.

I&E suggests that the ALJ’s recommendation potentially allows Columbia to continue recovering hardship funds through the Rider USP indefinitely, and thus her recommendation fails to even address the Hardship Fund issue. I&E Exc. at 8. I&E appears to be arguing that the ALJ’s recommendation permits Columbia to continue recovering hardship funds through the Rider USP until voluntary funding is in place. Specifically, I&E states that ratepayers could be “captured until Columbia finds voluntary resources to replace the mandatory Rider USP funds, which theoretically may never occur;” that “Columbia’s search for voluntary resources ... could continue in perpetuity;” and that “[c]onceivably, Columbia could raise this same argument, ‘not enough time,’ in its next base rate case as well.” Id. I&E’s statements mischaracterize the ALJ’s recommendation. The ALJ’s recommendation does not punt the issue to an indefinite future proceeding, but lays the groundwork for these funds to be removed from the Rider USP in

Columbia's *next* base rate proceeding with as minimal impact as possible to the customers who rely on the Hardship Fund.

Specifically, the ALJ's recommendation directs Columbia to ramp-up its fundraising efforts for the hardship fund and to address removing the funds from its Rider USP as part of its next base rate proceeding. R.D. at 58-59. The ALJ's recommendation does not tie the removal of the hardship funds from the Rider USP to Columbia's actual ability to replace the funding. Furthermore, although the ALJ's recommendation does not direct Columbia to remove the funding from its Rider USP in its next base rate filing, the recommendation does advance the company towards removing hardship funds from the Rider USP. The OCA submits that the ALJ's recommendation is consistent with the Commission's directive in the USECP Order to address the Hardship Fund in this proceeding. As discussed above, the USECP Order directed parties to "address" the issue in this base rate proceeding, but "address" does not require an immediate end to this funding mechanism.

C. I&E's Exceptions Ignores the Record Evidence Relating to the Impact of Immediately Removing the \$375,000.

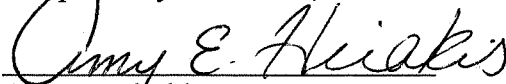
I&E described the funds at issue here as a "relatively small sum of \$375,000." I&E Exc. at 8. As the ALJ noted, however, the record contained un rebutted evidence that removing the funds from the Rider USP without replacing the funds would negatively impact the residential customers who rely on the Hardship Fund to maintain service. RD at 56. See OCA St. 4-S at 11; CAUSE-PA St. 1-SR at 10. Although the actual impact of immediately removing \$375,000 from the Hardship Fund is not known, it is known that Columbia's Hardship Fund is critically important to providing residential customers facing financial difficulties with the ability to maintain natural gas service. See CAUSE-PA St. 1-SR at 9. Columbia witness Nancy J. D. Krajovic testified that the \$375,000 that Columbia collects through the Rider USP for the

Hardship Fund is still needed and that “Columbia continues to see an increase in fuel fund utilization.” See Columbia St. 112-RJ at 4. The OCA submits that the ALJ’s recommendation to permit Columbia to temporarily continue collecting the \$375,000 through the Rider USP properly considers this evidence. I&E’s Exception, however, asks the Commission to ignore this evidence in its determination on whether Columbia is permitted to temporarily continue recovering hardship funds through the Rider USP.

### 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 Administrative Law Judge Long recommendation related to the recovery of \$375,000 for hardship funds through the Company's Universal Service Rider should be upheld, and I&E's exceptions should be denied.

Respectfully Submitted,



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October 29, 2015

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CERTIFICATE OF SERVICE

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

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 § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 29<sup>th</sup> day of October 2015.

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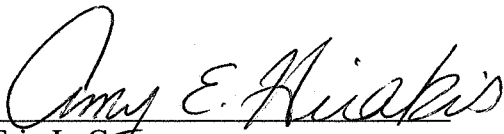
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