



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

IN REPLY PLEASE
REFER TO OUR FILE

October 29, 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) **Reply 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 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
ALJ Mary D. Long
Gladys M. Brown, Chairman
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.	:	

BUREAU OF INVESTIGATION AND ENFORCEMENT'S
REPLIES TO THE EXCEPTIONS OF
COLUMBIA GAS OF PENNSYLVANIA, INC.
AND THE PENNSYLVANIA STATE UNIVERSITY

Johnnie E. Simms
Chief Prosecutor
PA Attorney I.D. #33911

Richard A. Kanaskie
Deputy Chief Prosecutor
PA Attorney I.D. #80409

Scott B. Granger
Prosecutor
PA Attorney I.D. #63641

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Dated: October 29, 2015

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I. INTRODUCTION

A. Introduction and 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. 226 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:

Although funding a Hardship Fund program through employee, customer, and stockholder contributions is less consistent than a flat charge added to

² USECP Tentative Order at 28.

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

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 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.

On July 31, 2015, PSU filed a Motion for Leave to File Amended Complaint, which included a copy of its Amended Complaint ("PSU Amended Complaint"). PSU raised issues concerning Columbia's plan to remove part of the Snowshoe Lateral and to acquire long-term firm interstate capacity from Dominion Transmission Inc. ("DTI").⁶

On August 4, 2015, an evidentiary hearing was held before Administrative Law Judge Mary D. Long ("ALJ Long"). At the hearing, the parties introduced and admitted into evidence certain testimony and exhibits that were submitted during the course of the proceeding. The parties also agreed to waive cross-examination of all witnesses except

⁴ USECP Final Order at 39-40.

⁵ I&E M.B. at 6-7.

⁶ See R.D. at 1-3 and 12-15; Columbia Exceptions at 1-4, and PSU Exceptions at 1-5 for a more complete statement of the history of the Snowshoe Lateral portion of this proceeding and settlement.

for those witnesses that submitted testimony about the issues raised in PSU's Amended Complaint concerning the Snowshoe Lateral issue.

Ultimately the parties arrived at two rate case settlement petitions in this consolidated rate proceeding. One between Columbia and the majority of the parties, including I&E (“Base Rate Settlement”); and a second between Columbia and PSU (“Snowshoe Settlement”).⁷ Columbia, I&E, and the majority of the parties agreed to the Base Rate Settlement; the Rider USP Hardship Fund funding issue was carved out and reserved for litigation. The Snowshoe Settlement was negotiated by Columbia and PSU exclusively.⁸

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 issue as well as the Base Rate Settlement and the Snowshoe Settlement.

⁷ I&E is not a signatory to the Columbia-PSU Joint Petition for Settlement; and I&E does not oppose the Columbia-PSU Settlement.

⁸ On August 7, 2015, PSU and Columbia informed the ALJ that they had reached a settlement in principle on the Snowshoe Lateral issues raised in PSU's Amended Complaint. Under the Snowshoe Settlement, these issues would be separated from the base rate proceeding at Docket No. R-2015-2468056 and continued in a separate complaint docket for separate hearing and decision. Further, all testimony and exhibits concerning the Snowshoe Lateral and Columbia's acquisition of capacity from DTI would be excluded from the record in the base rate proceeding. Moreover, Columbia would file an application to abandon service to certain customers, and Columbia and PSU would jointly request that the abandonment proceeding be consolidated with PSU's separated proceeding. The Snowshoe Settlement also contained certain protections for customers and natural gas suppliers related to the timing of any termination of use of the Snowshoe Lateral, which were responsive to the issues raised in PSU's Amended Complaint.

I&E, Columbia and PSU all filed Exceptions (hereinafter identified as “I&E Exceptions, Columbia Exceptions, and PSU Exceptions”) to ALJ Long’s Recommended Decision on October 23, 2015.

I&E now respectfully files these replies to the exceptions filed by Columbia and PSU.

II. I&E REPLIES TO EXCEPTIONS

A. I&E Reply to Columbia Exception No. 1 and PSU Exceptions Nos. 1-4: I&E is not a signatory to the Columbia-PSU Joint Petition for Settlement; and I&E does not oppose the Columbia-PSU Snowshoe Settlement. R. D. at 12-15.

As stated *supra*, Columbia and PSU entered into the Snowshoe Settlement on August 27, 2015. The only signatory parties to the Snowshoe Settlement were Columbia and PSU. I&E was not a signatory to the Snowshoe Settlement, nor did I&E oppose the Settlement. The Snowshoe Settlement may impact the Base Rate Settlement in that PSU’s agreement to not oppose the Base Rate Settlement was contingent upon the full approval of the Snowshoe Settlement without modification.

I&E reiterates that the parties to the Base Rate Settlement have agreed to a base rate increase, to an allocation of that revenue increase to the rate classes, and to rate designs for all rate classes to recover the portion of the rate increase allocated to such classes.⁹ Upon approval of the Base Rate Settlement, Columbia will receive an increase in existing base rate operating revenues of approximately 5.18%, instead of the 8.63% increase proposed in Columbia’s filing. I&E submits that the Base Rate Settlement

⁹ See Joint Petition for Partial Settlement, Docket No. R-2014-2468056.

balances the interests of the Company and its customers in a fair and equitable manner and presents a resolution for the Commission's adoption that best serves the public interest.

B. I&E Reply to Columbia Exception No. 2: Columbia's plan to seek out additional funding from voluntary sources should not be based on or limited by the current recovery of \$375,000 in Hardship Fund funding through mandatory contributions using Columbia's Rider USP. Columbia Exceptions at 12-14.

First, as argued in I&E's Main Brief and Exceptions,¹⁰ the Commission should order Columbia to discontinue the collection of \$375,000 for its Hardship Fund funding through the use of mandatory contributions through its Rider USP.

Second, regarding Columbia's Exception No. 2, Columbia is asking for a clarification from the ALJ and the Commission to not presuppose the amount of voluntary funding Columbia's additional fundraising efforts will produce prior to the commencement of those fundraising efforts.¹¹ Columbia's request for clarification focuses on the statement in the R.D. "Columbia should have a plan in place to replace the funding from voluntary sources and should address the alternative recovery of the hardship funding in its next base rate case."¹² Columbia then argues that "replace" could be interpreted as an expectation that Columbia's enhanced fundraising efforts will produce an amount equal to the hardship fund contribution amount currently recovered through Rider USP.¹³ Columbia concludes by requesting that the words "seek out

¹⁰ See I&E M.B. at 5-13; I&E Exceptions at 4-9.

¹¹ Columbia Exceptions at 12-13.

¹² *Id.* See also R.D. at 59-60 (*emphasis added*).

¹³ Columbia Exceptions at 13.

additional” be substituted for “replace” in the ALJ’s R.D.¹⁴ Columbia’s argument and request, however is misplaced.

The amount of funding that should be “replaced” was never an issue in this base rate proceeding (or the USECP Proceeding). Columbia always had, and continues to have, complete control over the amount of voluntary Hardship Fund funding that Columbia provides. Columbia had complete control even while Columbia was acquiring voluntary funding for the Hardship Fund in connection with Columbia’s contract with Citizens Energy Corporation.

To the contrary, the narrow issue in the USECP Proceeding was the funding collected through the mandatory contributions using the Rider USP. The Commission did not agree with Columbia’s arguments in the USECP Proceeding; and, the Commission concluded that Columbia fund its Hardship Fund using only voluntary resources.¹⁵ Columbia now raises the instant argument regarding “replaced” versus “seek out additional.” As I&E argued in I&E’s Exceptions, Columbia could, in its attempts to continue to collect mandatory contributions through its Rider USP, prolong the arguments related to the Hardship Fund funding indefinitely.¹⁶ This current, and seemingly circular, argument raised in Columbia’s Exception No. 2 reinforces I&E’s argument. The Commission should not be persuaded by Columbia’s continued attempts to save the mandatory contributions through its Rider USP, but must instead end the

¹⁴ Columbia Exceptions at 14.

¹⁵ USECP Final Order at 39.

¹⁶ I&E Exceptions at 8.

recovery of the mandatory contributions to the Hardship Fund funding through Columbia's Rider USP.

Ending the mandatory funding through the Rider USP now will cure any confusion on the part of Columbia regarding presupposing the amount of fund raising that would result from Columbia's fund raising efforts. Columbia will continue to be free, as it has always been, to provide whatever amount of voluntary funding it so desires to fund the Hardship Fund. The Commission has made it clear, by rejecting Columbia's argument in the USECP Proceeding, that Columbia can no longer be allowed to recover those funds through mandatory contributions through the Rider USP. Columbia will then be free of confusion and free to contribute \$250,000 or \$500,000 or even \$750,000 using voluntary resources if Columbia so chooses.

Repeating the summary from I&E's Exceptions, the Commission received and considered the comments of the relevant parties regarding this issue in Columbia's USECP Proceeding.¹⁷ The Commission stated that it was not persuaded by Columbia's argument that Columbia cannot fund their hardship fund program using only voluntary resources.¹⁸ The Commission directed the relevant parties to address this issue in this current base rate case.¹⁹ No party filed exceptions to the USECP Final Order or petitioned for clarification or reconsideration.²⁰ I&E has no burden to offer record evidence in this current base rate proceeding to support that which the Commission has

¹⁷ I&E M.B. at 2, 6-7 (*citing* USP Final Order).

¹⁸ I&E M.B. at 2, 6 (*citing* USP Final Order).

¹⁹ *Id.*

²⁰ I&E M.B. at 6.

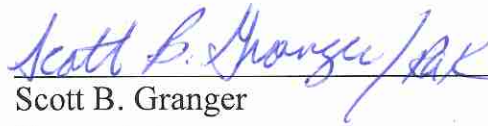
already determined.²¹ Columbia, OCA and CAUSE-PA all recommended delaying resolution of this issue by pushing it to a future base rate case.²² ALJ Long now recommends that the Commission allow the continued recovery of the \$375,000 in Hardship Fund funding through mandatory contributions using Columbia's Rider USP for an undetermined period of time into the future.²³ I&E reiterates 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. Therefore, the Commission should order Columbia to discontinue the contributions of \$375,000 to its Hardship Fund funding through the use of its Rider USP.

²¹ USECP Final Order at 36-40. *See also* R. D. at 53-57.

²² R. D. at 56-58.

²³ R. D. at 58-59.

Respectfully submitted,



Scott B. Granger
Prosecutor
PA Attorney I.D. No. 63641

Richard A. Kanaskie
Deputy Chief Prosecutor
PA Attorney I.D. No. 80409

Johnnie E. Simms
Chief Prosecutor
PA Attorney I.D. No. 33911

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265
(717) 787-1976

Dated: October 29, 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 **Reply to Exceptions** dated October 29, 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):

Served via Electronic and First Class Mail

Michael W. Hassell, Esquire
Lindsay A. Berkstresser, Esquire
Michael W. Gang, Esquire
Devin T. Ryan, Esquire
Post & Schell, PC
17 North Second Street – 12th Floor
Harrisburg, PA 17101

Theodore J. Gallagher, Esquire
Columbia Gas of Pennsylvania, Inc.
121 Champion Way, Suite 100
Canonsburg, PA 15317

Andrew S. Tubbs, Esquire
NiSource Corporate Service Company
800 N. Third Street, Suite 204
Harrisburg, PA 17102

Patrick Cicero, Esquire
Harry S. Geller, Esquire
Elizabeth R. Marx, Esquire
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1923
(*Counsel for CAUSE PA*)

Erin Gannon, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor Forum Place
Harrisburg, PA 17101-1923

Daniel G. Asmus, Esquire
Office of Small Business Advocate
300 North Second Street
Suite 202
Harrisburg, PA 17101

Thomas J. Sniscak, Esquire
William H. Lehman, Esquire
Hawke McKeon & Sniscak, LLP
100 N. 10th Street
Harrisburg, PA 17101
(*Counsel for PSU*)

Todd S. Stewart, Esquire
Hawke McKeon & Sniscak, LLP
100 N. 10th Street
Harrisburg, PA 17101
(*Counsel for NGS Parties*)

Charis Mincavage, Esquire
Elizabeth P. Trinkle, Esquire
McNees Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108
(*Counsel for CII*)

Thomas J. Sniscak, Esquire
Christopher M. Arfaa, Esquire
William E. Lehman, Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101

John F. Povilaitis, Esquire
Karen O. Moury, Esquire
Buchanan Ingersoll & Rooney PC
409 North Second Street
Suite 500
Harrisburg, PA 17101-1357
(*Counsel for RESA*)

Served via Electronic Mail

Hobart J. Webster, Esquire
hwebster@paoca.org

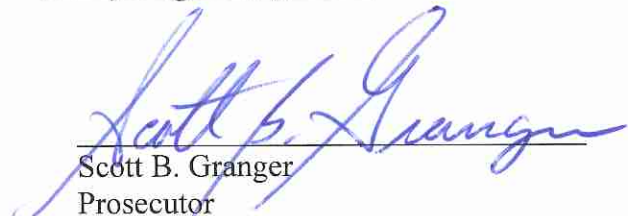
Rebecca Nace
rnace@paoca.org

Ms. Witten
MWhitten@LaCapra.com

Denise Smith
DSmith@paoca.org

Amy Hirakis, Esquire
ahirakis@paoca.org

Whitney E. Snyder, Esquire
wesnyder@hmslegal.com



Scott B. Granger
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. No. 63641