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April 7, 2016

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor (filing room)
Harrisburg, PA 17120

RE: Pennsylvania Public Utility Commission v. Columbia Water Company; Docket
No. R-2016-2525128, et al.; **JOINT PETITION FOR APPROVAL OF
SETTLEMENT**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission, on behalf of and authorized by all parties to this proceeding, is a copy of the Joint Petition for Approval of Settlement in the above-captioned matter. Copies have been served in accordance with the attached Certificate of Service.

If you have any questions regarding this filing, please do not hesitate to contact me.

Very truly yours,

Thomas J. Sniscak
Christopher M. Arfaa
William E. Lehman

Counsel to the Columbia Water Company

TJS/CMA/das
Enclosure

cc: Hon. David A. Salapa
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

v.

The Columbia Water Company

R-2016-2525128

Office of Consumer Advocate

v.

The Columbia Water Company

C-2016-2533052

JOINT PETITION FOR APPROVAL OF SETTLEMENT

The Columbia Water Company (“Columbia Water” or the “Company”), the Office of Consumer Advocate (“OCA”) and the Bureau of Investigation and Enforcement (“I&E”) (collectively, the “Joint Petitioners”), by and through their undersigned attorneys, hereby join in this Joint Petition for Approval of Settlement (the “Settlement”), approval of which will resolve all issues in these proceedings. In support of this Settlement, the Joint Petitioners state as follows:

I. BACKGROUND

1. On January 12, 2016, Columbia Water filed Supplement No. 76 to Tariff – Water Pa. P.U.C. No 7 (“Supplement No. 76”), to become effective March 11, 2016. Supplement No. 76 acts to decrease Columbia Water’s rates for its Marietta Division customers by eliminating the surcharge associated with payback of certain PennVest and CoBank loan amounts approved in 1997 at Dkt. No. R-00963828.

2. On March 9, 2016, OCA filed a complaint (the “OCA Complaint”) against Supplement No. 76.

3. On March 10, 2016, the Commission entered an Opinion and Order (the “March 10 Order”), which provides as follows:

Upon our review of Supplement No. 76 and the OCA’s Complaint, we believe it is in the public interest to refer the OCA’s Complaint to the Office of Administrative Law Judge for appropriate action. Such action will not delay the tariff supplement from going into effect, *subject to reconciliation*;

THEREFORE,

IT IS ORDERED:

1. That this matter be referred to the Office of Administrative Law Judge for appropriate action.
2. That Supplement No. 76 to Tariff- Water Pa. P.U.C. No. 7, as amended, be permitted to become effective on March 11, 2016, *subject to reconciliation*.

March 10 Order at 3-4 (emphasis added).

4. On March 10, 2016, OCA served formal discovery requests upon Columbia Water.
5. On March 15, 2016, I&E filed a Notice of Appearance in this proceeding.
6. On March 18, 2016, I&E served formal discovery requests upon Columbia Water.
7. On March 23, 2016, Columbia Water filed an Answer, New Matter and Counterclaim in response to the OCA Complaint.
8. On March 23, 2016, Columbia Water filed a Petition for Reconsideration and Clarification of the March 10 Order (i) to state that this proceeding has been initiated upon the OCA Complaint, not upon the Commission’s motion, and (ii) to remove references to “reconciliation” of the rate decrease that is the subject of the OCA Complaint. In the Petition for Reconsideration and Clarification, Columbia Water averred, in part, as follows:

The surcharge that is the subject of Supplement No. 76 ... was established to recover the debt service of *both* a Pennsylvania Infrastructure Investment Authority (“PennVest”) loan *and* a CoBank loan, which were consolidated for purposes of cost

recovery. (Petition for Reconsideration and Clarification ¶ 1 (emphasis in original).)

Company management decided that, once the PennVest loan was paid off, the volumetric surcharge would continue to be collected in order to accelerate repayment of the CoBank loan. This allowed the Company to pay off the CoBank loan in February, 2016, four (4) months earlier than provided by the original amortization schedule. When the retirement of the remaining loan drew near, Columbia Water promptly filed to remove the surcharge from rates. (Petition for Reconsideration and Clarification ¶ 8.)

9. On March 23, 2016, Columbia Water filed a Motion to Stay Discovery pending the Commission's disposition of the Petition for Reconsideration and Clarification. On or about March 29, 2016, the Joint Petitioners resolved the issues raised by the Motion to Stay Discovery.

10. Following the filing of Columbia Water's pleadings and motion on March 23, 2016, the Joint Petitioners engaged in discussions and informal discovery relating to the use of the surcharge to accelerate payment of the CoBank loan after retirement of the Pennvest loan.

11. During the discussions and informal discovery following Columbia Water's filings, OCA and I&E jointly requested that the Company "[p]rovide a list of payments owed and payments made to PennVest and CoBank covering the time the PennVest loan ceased and verifying the CoBank loan payment was accelerated."

12. On March 30, 2016, Columbia Water responded to the OCA and I&E joint informal discovery request by providing a schedule of 2015 PennVest Payments Due and Payments Made and 2015/2016 CoBank Payments Due and Payments Made. A copy of Columbia Water's verified response to the OCA and I&E joint informal discovery request is attached hereto as **Exhibit A**.

13. On March 30, 2016, Columbia Water supplemented its response to the OCA and I&E joint informal discovery request by obtaining and providing a copy of a letter from CoBank to Columbia water confirming that the CoBank loan that was the subject of the surcharge has been

paid off.¹ A copy of the March 30, 2016 letter from CoBank to Columbia Water is attached hereto as **Exhibit B**.

14. On or about March 31, 2016, after review of the information provided by the Company in response to the OCA and I&E joint informal discovery request and further discussion, the Joint Petitioners agreed to the settlement described below, which resolves all of the claims, defenses, counterclaims, contested allegations and other differences between the parties relating to the subject matter of this proceeding.

15. On April 1, 2016, the Joint Petitioners filed a Joint Motion to Stay Proceedings Pending Submission of, and Commission Ruling Upon, Settlement (“Joint Petition to Stay”).

16. On April 1, 2016, the Commission issued a Secretarial Letter granting the Joint Petition to Stay with respect to the filing of answers to the Company’s Petition for Reconsideration and Clarification and extending the period for the filing of such answers by ninety (90) days.

17. On April 4, 2016, ALJ David A. Salapa issued an Order granting the Joint Petition for Stay with respect to the filing of replies to Columbia Water’s Answer, New Matter, Counterclaim and Request for Affirmative Relief and suspending the schedule for litigation of the OCA Complaint pending the filing, consideration and approval of the Settlement.

II. SETTLEMENT TERMS AND CONDITIONS

18. The Joint Petitioners agree to the settlement of this matter on the following terms:

- a. The Commission grants the Joint Petition and approves this Settlement without modification;

¹ The Company previously provided to Commission Staff (“TUS”) in response to a Data Request a copy of the notice or letter from PennVest confirming payment in full and OCA and I&E are aware and have reviewed the same which is in the Commission’s files.

- b. Columbia Water's informal discovery responses to informal discovery requests attached hereto as Exhibits A and B are admitted into the evidentiary record of this matter in support of the Settlement;
- c. The OCA Complaint is deemed withdrawn and satisfied by the Commission's order approving this Settlement;
- d. Columbia Water's Answer, New Matter and Counterclaim is deemed withdrawn by the Commission's order approving this Settlement.
- e. The March 10 Order is modified by striking the words "subject to reconciliation" from the penultimate paragraph on page 3 and from the second ordering paragraph on page 4;
- f. Columbia Water's Petition for Reconciliation and Clarification is granted in part and denied in part consistent with the Commission's Order approving the Settlement;
- g. Supplement No. 76 to Tariff - Water Pa. P.U.C. No. 7, as amended, which became effective on March 11, 2016, is approved by Final Order of the Commission.
- h. These proceedings are marked closed.

III. THIS SETTLEMENT IS IN THE PUBLIC INTEREST

19. The Commission has stated that, "[i]n the Commission's judgment, the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding." 52 Pa. Code § 69.401. Therefore, "[i]t is the policy of the Commission to encourage settlements." 52 Pa. Code § 5.231(a); *accord* 52 Pa. Code § 69.391 ("The Commission

encourages parties to seek negotiated settlements of contested proceedings in lieu of incurring the time, expense and uncertainty of litigation.”).

20. This Settlement was achieved by the Joint Petitioners after investigation of the use of the proceeds of the surcharge after the retirement of the PennVest loan.

21. The Joint Petitioners hereby stipulate to the admission of Columbia Water’s responses to the Joint Informal Discovery Requests attached hereto as Exhibits A and B in support of the Settlement.

22. Columbia Water’s responses to the joint informal discovery request indicate (a) that after the PennVest loan was repaid in full, the surcharge was used to accelerate repayment of the CoBank loan by four (4) months thereby facilitating the Company’s early removal of the charge from rates and customer bills, and (b) that the CoBank loan has been repaid in full.

23. Therefore, no purpose would be served by further investigation of Supplement No. 76, which removes the surcharge used to fund the repayment of the PennVest and CoBank loans.

IV. ADDITIONAL TERMS AND CONDITIONS

24. This Settlement is conditioned upon the Commission’s approval of the terms and conditions contained herein without modification. If the Commission modifies the Settlement, then any Joint Petitioner may elect to withdraw from this Settlement and may proceed with litigation and, in such event, this entire Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all parties and the ALJs within five business days after the entry of an Order modifying the Settlement. This Settlement is made without any admission against, or prejudice to, any position which any Joint Petitioner may adopt in the event of any subsequent litigation of this proceeding in the event a Joint Petitioner elects to withdraw as provided in this paragraph.

25. If the Presiding Officer adopts this Settlement without modification in his initial or recommended decision, the Joint Petitioners waive their rights to file exceptions to the issues addressed by the Settlement.

V. CONCLUSION

WHEREFORE, for all of the foregoing reasons, the Joint Petitioners respectfully request: that the Commission enter an ORDER that:

1. Grants the Joint Petition and approves this Settlement without modification;
2. Admits Columbia Water's informal discovery responses to informal discovery requests attached as Exhibits A and B into the evidentiary record in support of the Settlement;
3. Deems the OCA Complaint withdrawn and satisfied;
4. Deems Columbia Water's Answer, New Matter and Counterclaim withdrawn;
5. Modifies the March 10 Order by striking the words "subject to reconciliation" from the penultimate paragraph on page 3 and from the second ordering paragraph on page 4;
6. Grants in part (per paragraph 5 immediately above) and denies in part Columbia Water's Petition for Reconciliation and Clarification consistent with the Commission's Final Order approving the Settlement;
7. Approves Supplement No. 76 to Tariff - Water Pa. P.U.C. No. 7, as amended;
8. Directs these proceedings to be marked closed; and

9. Grants such other relief as may be just.

Respectfully submitted,



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Counsel for
THE COLUMBIA WATER COMPANY

DATED: April 7, 2016

EXHIBIT A

Columbia Water Company
Docket No. R-2016-2525128

OCA and I&E Joint Informal Discovery Request

1. Provide a list of payments owed and payments made to PennVest and CoBank covering the time the PennVest loan ceased and verifying the CoBank loan payment was accelerated.

Answer: See attached schedule.

Provided by: David Lewis, Vice President and General Manager

Dated: March 30, 2016

2015 PennVest Payments Due and Payments Made

Date	Debt Service Due	Payments Made
01/01/2015	\$ 7,212.33	\$ 7,212.33
02/01/2015	7,212.33	7,212.33
03/01/2015	7,212.33	7,212.33
04/01/2015	7,212.33	7,212.33
05/01/2015	7,211.60	7,211.60

2015/2016 CoBank Payments Due and Payments Made

Date	Debt Service Due	Payments Made
1/20/2015	\$ 12,745.75	\$ 12,745.75
2/20/2015	12,760.10	12,760.10
3/20/2015	12,624.86	12,624.86
4/20/2015	12,778.31	12,778.31
5/20/2015	12,742.22	12,742.22
6/22/2015	12,780.20	19,992.53 ¹
7/20/2015	12,766.47	19,978.80
8/20/2015	11,668.63	18,880.96
9/20/2015	12,712.62	19,924.95
10/20/2015	12,650.57	19,862.90
11/20/2015	12,627.44	19,839.77
12/21/2015	12,583.63	19,975.96
1/20/2016	12,563.26	19,775.59
2/20/2016	12,519.97	15,297.87 ²

¹ Starting in June 2015, the amount of the PennVest loan payment was applied to the CoBank loan. Had that not occurred the CoBank loan debt service payments at the non-accelerated amount would have continued through June of 2016.

² Includes \$2,777.90 for March 2016 remainder due to CoBank to fully pay off loan.

EXHIBIT B



5500 South Quebec Street
Greenwood Village, CO 80111
800 542 8072
www.cobank.com

March 30, 2016

David T. Lewis, Vice President
Columbia Water Company
220 Locust Street
P.O. Box 350
Columbia, PA 17512

Re: Loan Payoff

Dear Mr. Lewis:

This letter is to confirm that loan number R11102T01 to Columbia Water Company was paid off on March 1, 2016. Columbia Water Company has no outstanding loans with CoBank at this time. It was a pleasure to work with you and I hope we have the opportunity to work together in the future.

Sincerely,

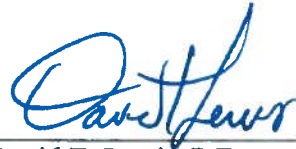
CoBank, ACB

A handwritten signature in blue ink, appearing to read "Bryan Ervin", is written over a faint, light blue circular stamp or watermark.

Bryan Ervin, Vice President
CoBank, ACB

VERIFICATION

I, David T. Lewis, on behalf of Columbia Water Company, hereby state that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing in this matter. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



David T. Lewis, P.E.
Vice President and General Manager
Columbia Water Company

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

By Electronic and First Class Mail

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phikirchne@pa.gov



Thomas J. Sniscak
Christopher M. Arfaa
William E. Lehman

Dated this 7th day of April, 2016