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File #: 164279

July 27, 2016

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, et al. v. Columbia Gas of Pennsylvania, Inc.
Docket No. R-2016-2529660, etc.**

Dear Secretary Chiavetta:

Enclosed please find the Motion of Columbia Gas of Pennsylvania, Inc. for a Protective Order in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

Lindsay A. Berkstresser

LAB/skr
Enclosure

cc: Certificate of Service
Honorable Katrina L. Dunderdale

**CERTIFICATE OF SERVICE
(Docket No. R-2016-2529660)**

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).

VIA E-MAIL AND FIRST CLASS MAIL

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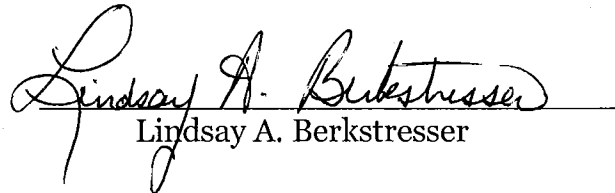
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Date: July 27, 2016


Lindsay A. Berkstresser

3. A prehearing conference was held on April 28, 2016, at which time a litigation schedule was established.

4. The Parties to this proceeding have engaged in substantial formal and informal discovery.

5. Proprietary Information within the definition of 52 Pa. Code § 5.365 has been requested in discovery during the course of this proceeding. Such information has been shared pursuant to Stipulated Protective Agreements between the parties to the case. Some of this information has been included in the testimony of certain parties, which justifies the issuance of a Protective Order. Specifically, several pieces of testimony submitted by multiple parties to this proceeding contain Proprietary Information regarding individual customer usage and sensitive commercial information. Parties may also desire to use Proprietary Information for cross-examination purposes. Treatment of such information as set forth in the attached proposed Protective Order is justified because unrestricted disclosure of this information would not be in the public interest. These considerations constitute cause for the restrictions specified in 52 Pa. Code § 5.365 and in Administrative Law Judge or Commission Orders granting relief pursuant to the regulation.

6. Under 52 Pa. Code §§ 5.362(a)(7) and 5.365, the Office of Administrative Law Judge or the Commission may issue a Protective Order to limit or prohibit disclosure of Proprietary Information where the potential harm to a participant would be substantial and outweighs the public's interest in having access to the Proprietary Information. In applying this standard, relevant factors to be considered include: the extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information may already be known by others; and the potential

value of such information to the participant and the participant's competitors and trade partners. 52 Pa. Code §§ 5.365(a)(1) – (3).

7. The attached proposed Protective Order defines “Confidential” information in Paragraph 3 as “those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Party or its clients to risk of competitive disadvantage or other business injury.” The proposed Protective order defines “Highly Confidential” information materials that are of such a commercially sensitive nature among the parties or of such a private, personal nature that the producing party is able to justify a heightened level of confidential protection with respect to those materials. Clearly, protecting this type of information from disclosure is appropriate.

8. Limitation on the disclosure of Proprietary Information will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding. The proposed Protective Order balances the interests of the Parties, the public, and the Commission.

9. As noted previously, Columbia has entered into Stipulated Protective Agreements with all active Parties in this proceeding, including the Bureau of Investigation and Enforcement (“I&E”), Office of Consumer Advocate (“OCA”), Office of Small Business Advocate (“OSBA”), Columbia Industrial Intervenors (“CII”), Coalition for Affordable Utility Service and Energy Efficiency - Pennsylvania (“CAUSE-PA”), Community Action Association of Pennsylvania (“CAAP”), The Pennsylvania State University (“PSU”), Direct Energy Business, LLC (“Direct Energy”) and Dominion Retail, Inc., Interstate Gas Supply, Inc. and Shipley Choice LLC (“NGS Parties”). The Protective Order is substantially based upon the terms and conditions contained in the

Stipulated Protective Agreements, as modified slightly to clarify the sharing of Proprietary Information with and by the Commission in Paragraph 7.

10. The attached proposed Protective Order will protect the Proprietary Information while allowing the Parties to use such information for purposes of the instant litigation.

WHEREFORE, for all the foregoing reasons, Columbia Gas of Pennsylvania, Inc. requests that Administrative Law Judge Katrina L. Dunderdale grant this Motion and issue the attached Protective Order.

Respectfully submitted,

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Dated: July 27, 2016

Attorneys for Columbia Gas of Pennsylvania, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2016-2529660
	:	
Columbia Gas of Pennsylvania, Inc.	:	

PROTECTIVE ORDER

Upon consideration of the Motion for a Protective Order that was filed by Columbia Gas of Pennsylvania, Inc. on July 27, 2016;

IT IS ORDERED THAT:

1. The Protective Order is hereby granted with respect to the material and information identified in Paragraphs 2 and 3 below, which have been or will be filed with the Commission, or otherwise presented during the above-captioned proceeding and all proceedings consolidated therewith. All persons previously or hereafter granted access to the materials and information identified in Ordering Paragraphs 2 and 3 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. The material or information subject to this Protective Order includes testimony and exhibits filed by various witnesses and parties that contains Proprietary Information. To the extent any additional Proprietary Information is filed with the Commission or presented in this proceeding, such information shall also be subject to this Protective Order.

3. "CONFIDENTIAL" materials are those materials which customarily are treated by that party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that party or its clients to risk of

competitive disadvantage or other business injury. “HIGHLY CONFIDENTIAL” materials are those materials that are of such a commercially sensitive nature among the parties or of such a private, personal nature that the producing party is able to justify a heightened level of confidential protection with respect to those materials. Together, these materials will be referred to as “Proprietary Information” for the purposes of this Protective Order.

4. Proprietary Information shall be made available to counsel for the non-producing Party, subject to the terms of this Protective Order. Such counsel shall use or disclose the Confidential and Highly Confidential Information only for purposes of preparing or presenting evidence, cross examination or argument in this proceeding.

5. In addition, information deemed as “CONFIDENTIAL” material shall be made available to a “Reviewing Representative” who is a person who is:

- (i) An outside expert or an employee of an outside expert retained by a party for the purpose of advising, preparing for or testifying in this proceeding; or
- (ii) Employees or other representatives of a party appearing in this proceeding with significant responsibility for this docket.

Provided, however, that no Reviewing Representative may be a “Restricted Person.” “Restricted Person” shall mean: (a) an officer, director, stockholder, partner, or owner of any competitor of a Party to this proceeding or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor’s products or services; (b) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of a Party to this proceeding (including any association of competitors of a Party) or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor’s products or services; (c) an officer, director, stockholder,

owner, or employee of a competitor of a customer of a Party to this proceeding if the Proprietary Information concerns any specific, identifiable customer of a Party; and (d) an officer, director, stockholder, owner, or employee of an affiliate of a competitor of a customer of a Party to this proceeding if the Proprietary Information concerns a specific, identifiable customer of the Party; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business would provide a significant motive for violation of the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than a one percent interest in a business establishes a significant motive for violation.

6. The Information deemed as "HIGHLY CONFIDENTIAL" material may be provided to a "Reviewing Representative" who is:

- (i) An outside expert or an employee of an outside expert retained by a party for the purposes of advising, preparing for or testifying in this proceeding

Provided, however, that no Reviewing Representative may be a "Restricted Person" as defined in Paragraph 5 or include any employee or agent of a customer of a Party to this proceeding, a competitor of a Party to this proceeding or a competitor of a customer of the Party whose duties include: the marketing, sale, or purchase of natural gas or natural gas transportation services; management regarding or supervision of any employee whose duties include the marketing, sale, or purchase of natural gas or natural gas transportation services for a competitor of a Party to this proceeding or a customer of the Party; consulting services for a competitor of a Party to this proceeding or a customer of the Party regarding the marketing, sale, or purchase of natural gas or

natural gas transportation services; or responsibility regarding other strategic business activities in which use of market sensitive information could be reasonably expected to cause competitive harm to a Party or to a customer of a Party to this proceeding.

A qualified “Reviewing Representative” for “HIGHLY CONFIDENTIAL” material may review and discuss “HIGHLY CONFIDENTIAL” material with their client or with the entity with which they are employed or associated, to the extent that the client or entity is not a “Restricted Person”, but may not share with or permit the client or entity to review the “HIGHLY CONFIDENTIAL” material. However, counsel for the Office of Consume Advocate may share proprietary information with the Consumer Advocate without obtaining a Non-Disclosure Certificate from the Consumer Advocate provided that this individual abide by the terms of the Stipulated Protective Agreement, and counsel for the Office of Small Business Advocate may share proprietary information with the Small Business Advocate without obtaining a Non-Disclosure Certificate from the Small Business Advocate provided that this individual abide by the terms of the Stipulated Protective Agreement.

7. If an expert for a Party to this proceeding, another member of the expert’s firm or the expert’s firm also serves as an expert for, or as a consultant or advisor to, a Restricted Person, said expert must: (1) identify for the other Party to this proceeding, each Restricted Person and each expert or consultant; (2) make reasonable attempts to segregate those personnel assisting in the expert’s participation in this proceeding from those personnel working on behalf of a Restricted Person; and (3) if segregation of such personnel is impractical, the expert shall give to the producing Party written assurances that the lack of segregation will in no way jeopardize the interests of the producing Party

or its customers. The Parties retain the right to challenge the adequacy of the written assurances that the Parties or their customers' interests will not be jeopardized.

8. If any person who has had access to Proprietary Information subsequently is assigned to perform any duties which would make that person ineligible to be a Reviewing Representative of "Confidential" or "Highly Confidential" information, that person shall immediately inform the producing Party of his or her new duties, shall dispose of any Proprietary Information and any information derived therefrom in his or her possession, and shall continue to comply with the requirements of this Protective Order with regard to the Proprietary Information to which that person previously had access.

9. Proprietary Information produced in this proceeding shall be made available to the Commission and its Staff. For purposes of filing, to the extent that Proprietary Information is placed in the Commission's report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Proprietary Information shall be permitted only in accordance with this Protective Order.

10. The nonproducing Party will consider and treat the Proprietary Information as within the exemptions from disclosure provided in the Pennsylvania Right to Know Law, Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104, effective January 1, 2009, until such time as the information is found to be non-proprietary.

11. Any public reference to Proprietary Information by a Party shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

12. Part of any record of this proceeding containing Proprietary Information, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the Parties or pursuant to an order of the Administrative Law Judge, the Commission or appellate court.

13. The nonproducing Party shall retain the right to question or challenge the confidential nature of Proprietary Information. If a nonproducing Party challenges the designation of a document or information as within the definition established in paragraph 3 of this Protective Order, the Party providing the information retains the burden of demonstrating that the designation is appropriate.

17. Each Party shall retain the right to question or challenge the admissibility of Proprietary Information; to object to the production of Proprietary Information on any proper ground other than confidentiality; to refuse to produce Proprietary Information pending the adjudication of the objection; and to seek additional measures of protection of Proprietary Information beyond those provided in this Protective Order.

18. Within 30 days after a Commission Final Order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, the nonproducing Party, upon request, shall either destroy or return to the producing Party all copies of all documents and other materials not entered into the

record, including notes, which contain any Proprietary Information. In the event that the nonproducing Party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies of documents and other materials containing Proprietary Information to the producing Party, the nonproducing Party shall certify in writing to the producing Party that the Proprietary Information has been destroyed.

Dated: _____

Administrative Law Judge
Katrina L. Dunderdale