



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

IN REPLY PLEASE
REFER TO OUR FILE

January 29, 2018

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission v.
The Columbia Water Company
Docket No. R-2017-2598203

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E) **Reply to Exceptions** in this proceeding.

Copies are being served on all active parties of record as evidenced 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. No. 63641

Erika L. McLain

Prosecutor

Bureau of Investigation and Enforcement
PA Attorney I.D. #320526

SBG/ELM/sea
Enclosure

cc: Administrative Law Judge Joel H. Cheskis
Administrative Law Judge Andrew M. Calvelli
Certificate of Service
Cheryl Walker-Davis – OSA (via email only)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission

v.

The Columbia Water Company

:
:
:
:
:

Docket No. R-2017-2598203

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Reply to Exceptions** dated January 29, 2018, 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 First Class and/or Electronic Mail

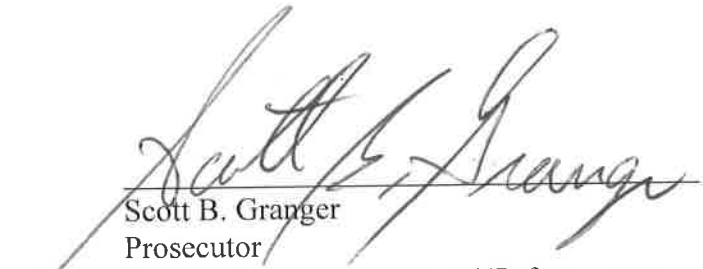
Thomas J. Sniscak, Esquire
Christopher Arfaa, Esquire
William Lehman, Esquire
Hawke McKeon & Sniscak, LLP
100 North Tenth Street
Harrisburg, PA 17105

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

Brian W. Kalcic
excel.consulting@sbcglobal.net

Christine Maloni Hoover, Esquire
Harrison W. Breitman, Esquire
Phillip D. Demanchick, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Ashley Everette
aeverette@paoca.org


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

Erika L. McLain
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. No.320526

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

v.

The Columbia Water Company

:
:
:
:
:

Docket No.: R-2017-2598203

BUREAU OF INVESTIGATION AND ENFORCEMENT'S
REPLY TO THE EXCEPTION OF
THE COLUMBIA WATER COMPANY

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

Allison C. Kaster
Deputy Chief Prosecutor
PA Attorney I.D. #93176

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: January 29, 2018

Table of Contents

I. INTRODUCTION..... 1

 A. History of the Proceeding 1

II. REPLY TO EXCEPTION 2

 A. I&E’s Reply to the Exception Propounded by The Columbia Water Company... 2

 1. I&E Reply to Columbia Exception I: The ALJs’ Discussion and Inferences
 must be Clarified as they relate to the Express Terms of the Settlement and
 Black Box Settlements Generally (R.D., pp. 9, 14). 2

III. CONCLUSION 4

I. INTRODUCTION

A. History of the Proceeding

On June 27, 2017, The Columbia Water Company (“Columbia” or “Company”) filed Supplement No. 86 To Tariff – Water Pa. P.U.C. No. 7 (“Supplement 86”) to become effective August 29, 2017. Supplement 86 proposed to increase Columbia’s total annual operating revenues by approximately \$923,668 or 17.8% above the level of pro forma revenues for the future test year ending December 31, 2017. The overarching objective of Supplement 86 is to consolidate the tariffs for Columbia’s two divisions; (1) Columbia Division and (2) Marietta Division; into one consolidated tariff.

In accordance with Commission policy favoring settlements at 52 Pa. Code § 5.231, the Bureau of Investigation and Enforcement (“I&E”) participated in multiple in-person and telephonic settlement discussions with the Company and other parties to the proceeding (“Joint Petitioners”). Following extensive settlement negotiations, the Joint Petitioners reached a full settlement of all the issues as set forth in detail in the Joint Petition for Full Settlement of Rate Proceeding (“Joint Petition” or “Settlement”). The Joint Petition was filed on December 12, 2017. In support of the Joint Petition, I&E filed its Statement in Support of Joint Petition for Settlement (“I&E SIS”). The Company, the Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”) also filed statements in support of the settlement, all of which were attached to the Joint Petition as appendices.

The Administrative Law Judges (“ALJs”) assigned to this proceeding issued their Recommended Decision (“R.D.”) on January 12, 2018. Then, on January 22, 2018 Columbia filed its Exception of The Columbia Water Company (“Columbia Exception”) to the ALJs’ R.D.

I&E now files its Bureau of Investigation and Enforcement’s Reply to the Exception of The Columbia Water Company (“I&E Reply”).

II. REPLY TO EXCEPTION

A. I&E’s Reply to the Exception Propounded by The Columbia Water Company.

1. I&E Reply to Columbia Exception I: The ALJs’ Discussion and Inferences must be Clarified as they relate to the Express Terms of the Settlement and Black Box Settlements Generally (R.D., pp. 9, 14).

Columbia first acknowledges that the ALJs’ well-reasoned R.D. recommends that the Commission adopt the Settlement in its entirety without modification because it is in the public interest.¹ Columbia then argues that the ALJs’ otherwise well-reasoned analysis contains characterizations, interpretations, or conclusions in the discussion section of the R.D. that differ from the specific language of the Settlement and, if not corrected, contravene the Commission’s policy to encourage settlements including black-box settlements on issues without admission.² Specifically, Columbia points to page 14 of the R.D. where the ALJs state “as part of the Settlement, Columbia has agreed not to include a PENNVEST financed plant, purchased and installed by Marietta Gravity Water Company (“MGWC”) and recovered through the Marietta PENNVEST surcharge, in the

¹ Columbia Exception, p. 2.

² *Id.*

base rate.”³ Columbia then notes that the R.D. cited I&E’s Statement in Support in the discussion of this issue and in support of the ALJs’ conclusion.⁴ And, because the R.D. cites to portions of I&E’s Statement in Support in its discussion of this issue, I&E feels obligated to file this reply to Columbia’s Exception to help clarify the discussion.

I&E provided background information in its Statement in Support regarding the MGWC PENNVEST loans to add some context to the discussion of the issue in I&E’s Statement in Support.⁵ I&E then briefly summarized its understanding of the competing arguments proffered by Columbia and OCA regarding this issue during the litigation phase of this proceeding.⁶ I&E then recognized that the parties had reached a Settlement prior to litigating the issue at the Hearing; and, that the parties agreed that “the Settlement was not premised upon inclusion of the PENNVEST financed plant by the former MGWC, and recovered through the PENNVEST surcharge, in rate base.”⁷

Therefore, in consideration of the arguments set forth in Columbia’s Exception I and I&E’s understanding of the Joint Petition, and more specifically paragraph 20(d) of the Joint Petition, I&E supports Columbia’s Exception requesting the Commission approve the Settlement without modification. I&E also supports Columbia’s request that the Commission modify the R.D. on page 14 to reflect the Settlement language set forth in paragraph 20(d) of the Joint Petition as further explained in Columbia’s Exception.

³ R.D., p. 14.

⁴ Columbia Exception, p. 3, *citing* R.D., p. 14.

⁵ I&E SIS, pp. 18-19.

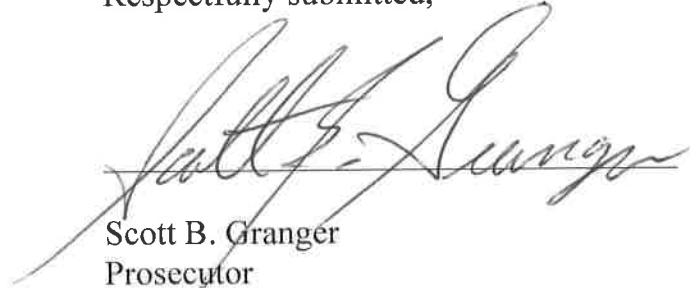
⁶ *Id.*

⁷ I&E SIS, p. 19.

III. CONCLUSION

For the reasons stated above, I&E respectfully requests that the Commission grant the relief requested in Columbia's Exception.

Respectfully submitted,



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

Allison C. Kaster
Deputy Chief Prosecutor
PA Attorney I.D. #93176

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

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

Dated: January 29, 2018