


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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June 2, 2020

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission  
v.  
Columbia Gas of Pennsylvania, Inc.  
Docket No. R-2020-3018835

Dear Secretary Chiavetta:

Attached for electronic filing please find the Answer of the Office of Consumer Advocate in Support of the Expedited Motion of the Bureau of Investigation and Enforcement to Extend the Statutory Suspension Period During the Emergency Interruption of Normal Operations of the Pennsylvania Public Utility Commission in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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Enclosures:

cc: The Honorable Charles E. Rainey, Jr. (Chief ALJ, PUC Philadelphia – **email only**)  
The Honorable Katrina L. Dunderdale (**email only**)  
Certificate of Service

\*289401

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :  
v. : Docket No. R-2020-3018835  
Columbia Gas of Pennsylvania, Inc. :

I hereby certify that I have this day served a true copy of the following document, the Answer of the Office of Consumer Advocate in Support of the Expedited Motion of the Bureau of Investigation and Enforcement to Extend the Statutory Suspension Period During the Emergency Interruption of Normal Operations of the Pennsylvania Public Utility Commission, 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 2<sup>nd</sup> day of June 2020.

**SERVICE BY E-MAIL ONLY**

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Dated: June 2, 2020  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	R-2020-3018835
Office of Small Business Advocate,	:	C-2020-3019702
Office of Consumer Advocate	:	C-2020-3019714
	:	
v.	:	
	:	
Columbia Gas Pennsylvania, Inc.	:	

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ANSWER OF THE OFFICE OF CONSUMER ADVOCATE IN SUPPORT OF  
THE EXPEDITED MOTION OF THE BUREAU OF INVESTIGATION AND  
ENFORCEMENT TO EXTEND THE STATUTORY SUSPENSION PERIOD DURING THE  
EMERGENCY INTERRUPTION OF NORMAL OPERATIONS OF THE PENNSYLVANIA  
PUBLIC UTILITY COMMISSION

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Pursuant to Section 5.103 of the Pennsylvania Public Utility Commission’s (Commission) Regulations, 52 Pa. Code Section 5.103, the Office of Consumer Advocate (OCA) files this Answer in Support of the Bureau of Investigation and Enforcement’s (I&E) Motion to Extend the Statutory Suspension Period During the Emergency Interruption of Normal Operations of the Pennsylvania Public Utility Commission (Answer) in the above-referenced proceeding. Extending the statutory suspension period is necessary and proper due to the OCA and other parties’ reduced ability to properly and fully investigate the Company’s filing during this emergency period.

**I. Background.**

On April 24, 2020, CGP filed Supplement No. 307 to Tariff Gas – Pa. P.U.C. No. 9 (Supplement No. 307) with the Commission to become effective June 23, 2020. In Supplement No. 307, CGP is seeking an increase in annual distribution revenues of \$100.4 million to become effective June 23, 2020 for a fully projected future test year (FPFTY) ending on December 31, 2021. CGP is engaged in the business of furnishing natural gas service to approximately 433,000

residential, commercial, and industrial customers in portions of 26 counties in western, northwestern, southern, and central Pennsylvania.

On May 21, 2020, the Commission issued an Order initiating an investigation into the lawfulness, justness and reasonableness of the proposed rate increase in this filing, in addition to the Company's existing rates, rules, and regulations, and suspended the effective date of Supplement No. 307 until January 23, 2021, by operation of law. The case was assigned to the Office of Administrative Law Judge (OALJ) and further assigned to Administrative Law Judge Katrina L. Dunderdale (the ALJ).

After the submission of Formal Complaints, Notices of Appearance, and Petitions to Intervene by numerous parties, including, but not limited to, the OCA, I&E, the Office of Small Business Advocate (OSBA), and Columbia Industrial Interveners (CII), a telephonic prehearing conference was scheduled for 9:00am on June 3, 2020.

On March 6, 2020, the Governor of the Commonwealth of Pennsylvania, Tom Wolf, issued a Proclamation of Disaster Emergency.<sup>1</sup> The Proclamation established the existence of a disaster emergency throughout the Commonwealth as a result of the novel coronavirus (hereinafter COVID-19). As a result of this emergency disaster Proclamation, Governor Wolf issued the following directive:

*FURTHER*, I hereby suspend the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency...<sup>2</sup>

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<sup>1</sup> See Proclamation of Disaster Emergency (March 6, 2020) <https://www.governor.pa.gov/wpcontent/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>.

<sup>2</sup> Id.

At the time of issuing the Proclamation, Pennsylvania had 2 presumed positive cases of COVID-19.<sup>3</sup> As of May 31, 2020, Pennsylvania has experienced 71,926(+511) confirmed COVID-19 cases and 5,555(+18) deaths as a result of this pandemic.<sup>4</sup>

On March 15, 2020, Governor Wolf issued an Executive Order implementing telework protocol for state employees for at least fourteen days beginning March 16, 2020, and the closing of all state offices in Dauphin County and the Capitol Complex.<sup>5</sup> As a result, the Commission's offices and the OCA's office in Harrisburg are closed and all employees are required to work from home, with extremely limited exception.

On March 20, 2020, an Emergency Order was issued by the Commission at Docket No. M-2020-3019262. The Emergency Order provides the Commission with the authority to waive any statutory or procedural deadline, *sua sponte*, in any proceeding if strict adherence to an established deadline will interfere with its ability to administer the Public Utility Code.<sup>6</sup> Moreover, the Emergency Order authorizes the Chief Administrative Law Judge to establish reasonable deadlines in rate case proceedings after consideration of the positions of the parties.<sup>7</sup>

On May 29, 2020, I&E filed its Motion to Extend the Statutory Suspension Period During the Emergency Interruption of Normal Operations of the Pennsylvania Public Utility Commission (Motion to Extend the Statutory Suspension Period). Through its Motion to Extend the Statutory

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<sup>3</sup> Id.

<sup>4</sup> See Pennsylvania Dept. of Health, <https://www.health.pa.gov/topics/Documents/Diseases%20and%20Conditions/COVID-19%20Situation%20Reports/20200531nCoVSituationReportExt.pdf>

<sup>5</sup> See Motion to Extend the Statutory Suspension Period.

<sup>6</sup> See Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements, Docket No. M-2020-3019262, Emergency Order at 2 (Mar. 20, 2020) (Emergency Order).

<sup>7</sup> Id. at 2-3.

Suspension Period, I&E requested that the Chief Administrative Law Judge Charles Rainey and Administrative Law Judge Katrina L. Dunderdale issue an Order granting an extension of the statutory suspension period, arising under 66 Pa C.S. §1308(d), in order for the Commission to decide this matter at its February 4, 2021 Public Meeting.<sup>8</sup>

Accordingly, the OCA files this Answer in support of I&E's Motion to Extend the Statutory Suspension Period.

**II. Answer.**

The Office of Consumer Advocate supports I&E's Motion to Extend the Statutory Suspension Period. Extending the suspension period beyond January 23, 2021 is necessary during this emergency disaster period due to the OCA's and the other parties' reduced ability to properly and fully investigate the Company's filing during the emergency period. However, the OCA submits that the February 4, 2021 Public Meeting date proposed by I&E is an insufficient extension of time. The OCA submits that the suspension period should be sufficiently extended in order for the Commission to decide this matter at its February 18, 2021 Public Meeting. An extension of the statutory suspension period in this matter will prevent a limited investigation and review of the rate filing.

A. Legal Authority.

Generally, base rate increase proceedings have a nine-month statutory deadline that ensures prompt investigation and review of the filing.<sup>9</sup> The Public Utility Code further provides that Presiding Officers shall have the authority, subject to the Commission's Regulations, to regulate

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<sup>8</sup> Id.

<sup>9</sup> See 66 Pa. C.S. § 1308(d).

the course of the hearing, dispose of procedural requests or similar matters, and take any other action authorized by Commission rule.<sup>10</sup>

As noted above, however, the Proclamation issued by Governor Wolf states that regulatory statutes governing the business of a Commonwealth agency, or order, rule or regulation of that agency, is suspended to the extent strict compliance would prevent, hinder, or delay the actions necessary to comply with the emergency declaration.<sup>11</sup> The Commission has since recognized in its Emergency Order that certain statutory and regulatory deadlines may hinder the public service mission of the Commission and its affected stakeholders.<sup>12</sup> The Commission's Emergency Order states, "...in a pending rate case litigation, the Chief Administrative Law Judge is authorized to establish reasonable deadlines under the circumstances after consideration of the position of the parties and the presiding Administrative Law Judge."<sup>13</sup> Thus, the Commission is allowing these deadlines to be extended where appropriate, without violating the timing requirements set forth in the Public Utility Code.

Accordingly, the Chief Administrative Law Judge in consultation with the Presiding Officer has the authority, pursuant to the Public Utility Code, the Governor's Proclamation, and the Commission's Emergency Order, to extend the statutory suspension period in this proceeding, without violating the statutory deadline set forth in the Public Utility Code.<sup>14</sup> This will assist all parties in being able to comply with the ongoing emergency declarations, while providing the

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<sup>10</sup> See 66 Pa. C.S. § 331(d).

<sup>11</sup> See Motion to Extend the Statutory Suspension Period; see also 35 Pa. C.S. § 7301.

<sup>12</sup> See Emergency Order at 2.

<sup>13</sup> Id.

<sup>14</sup> 66 Pa. C.S. Section 1308(d).



parties the opportunity to fully investigation and review the Company's rate increase filing in this proceeding.

B. Extension of the Statutory Suspension Period Will Prevent a Limited Investigation and Review of CGP's Rate Increase Filing.

The statutory suspension period as currently set forth will limit the ability of the OCA, and the other parties, to investigate and analyze the Company's filing, thus hindering the development of a full and complete record. Specifically, an extension of the statutory suspension period in this matter would lessen to an extent the challenges attributed to the restrictions of teleworking confronted by the OCA, as well as some of the other Parties, and the uncertainty surrounding the actual impacts of the COVID-19 pandemic, which may not be known for some time.

As indicated above, the circumstances surrounding the COVID-19 pandemic are changing rapidly. Since the issuance of the Proclamation, government offices have been closed in favor of telework arrangements and non-life-sustaining businesses have been closed and are only now beginning limited reopening in some parts of the state. In the midst of all this, many of the parties are trying to adjust to these changes, while continuing to meet their obligations in this proceeding. The OCA's office personnel are working remotely. Accordingly, the OCA does not have its usual access to physical files, photocopying, U.S. mail, and support staff, among other services. As such, the COVID-19 pandemic impairs the OCA's ability to investigate CGP's filing.

Furthermore, the full impact of the COVID-19 pandemic may not be known for some time. For example, the OCA concurs with I&E's remarks that the parties will need an appropriate length of time to fully assess the financial and economic impacts resulting from this pandemic—especially on CGP's low and moderate income consumers—and examine those impacts on CGP's low-income programs. Additionally, the extension of time is necessary to analyze the pandemic's impact on the global financial markets to allow for sufficient review of the level of revenue CGP

needs to continue safe and reliable operations. Providing additional time to analyze these issues will be critical going forward.

For these reasons, the OCA submits that the current situation will likely hinder its ability to fully investigate and analyze the Company's rate increase request before the estimated due date for the filing of the OCA's Direct Testimony. Accordingly, the OCA supports I&E's Motion to Extend the Statutory Suspension Period to allow for additional time for the parties to analyze the Company's filing in light of the current financial and economic situation and to provide sufficient opportunity for consumers to provide comments.

### III. Conclusion.

For the reasons set forth above, the OCA supports I&E's Motion to Extend the Statutory Suspension Period. This suspension is necessary to meet the mounting challenges resulting from the COVID-19 pandemic. It will also ensure that the OCA has sufficient time and resources to investigate and support its position in this proceeding and develop a full and complete record for the Commission's consideration.

Respectfully submitted,

*/s/ Laura J. Antinucci*

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