



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

July 6, 2020

Via Electronic Filing

Secretary Rosemary Chiavetta
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

**I&E Answer to the Petition for Reconsideration of Columbia Gas of
Pennsylvania, Inc.**

Dear Secretary Chiavetta:

Enclosed please find a copy of the Bureau of Investigation and Enforcement's (I&E) **Answer to the Petition for Reconsideration of Columbia Gas of Pennsylvania, Inc.** for the above-captioned proceeding.

Copies are being served on parties of record per the attached Certificate of Service. *Due to the temporary closing of the PUC's offices, I&E is only providing electronic Service.* Should you have any questions, please do not hesitate to contact me.

Sincerely,

Erika L. McLain
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Bureau of Investigation and Enforcement
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ELM/ac
Enclosures

cc: Honorable Katrina L. Dunderdale (*ALJ, PUC Pittsburgh – via email only*)
Dan Pallas (*Legal Assistant, PUC Pittsburgh – via email only*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
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Columbia Gas of Pennsylvania, Inc. :

Docket No.: R-2020-3018835

**BUREAU OF INVESTIGATION AND ENFORCEMENT ANSWER TO THE
PETITION FOR RECONSIDERATION OF COLUMBIA GAS OF
PENNSYLVANIA, INC.**

I. INTRODUCTION

On March 6, 2020, the Governor of the Commonwealth of Pennsylvania, Tom Wolf, (“Governor Wolf”) issued a Proclamation of Disaster Emergency (“Executive Order”).

In response to the Executive Order, on March 20, 2020, the Commission issued an Emergency Order at Docket No. M-2020-3019262. This Emergency Order granted authority to the Commission’s Chief Administrative Law Judge to among other things, “extend a statutory or regulatory deadline which may hinder, rather than further, the mission of the Commission, after consultation with all interested parties, as deemed necessary and appropriate.”¹

On March 24, 2020, Columbia Gas of Pennsylvania, Inc. (“Columbia” or “Company”) filed for a waiver of 52 Pa. Code § 53.52(b)(2) and requested a 30 day extension granting authority to file data in support of a proposed increase in base rates based

¹ Re: Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements, Docket No. M-2020-3019262, p.4 (Emergency Order entered March 20, 2020).

upon an historic test year ended November 30, 2019 on or before April 28, 2020. The Commission granted the Company's request via Secretarial Letter issued on March 27, 2020.

On April 24, 2020, Columbia Gas filed Supplement No. 307 to Columbia's Gas Service Tariff – Pa. P.U.C. No. 9 (“Supplement No. 307”) in which, Columbia seeks an increase in annual distribution revenues of \$100.4 million, to become effective June 23, 2020.

On April 27, 2020, the Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance. The Office of Consumer Advocate (“OCA”) filed a formal complaint on May 4, 2020, and the Office of Small Business Advocate (“OSBA”) filed a formal complaint on May 5, 2020. Petitions to Intervene were filed by Communication Action Association of Pennsylvania (“CAAP”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), and the Columbia Industrial Intervenors (“CII”).

On May 21, 2020, the Commission issued an Order suspending Columbia's filing by operation of law until January 23, 2021.

On May 22, 2020 Administrative Law Judge Katrina L. Dunderdale (“ALJ Dunderdale”) issued a Prehearing Conference Order scheduling a telephonic prehearing conference on June 3, 2020.

On May 29, 2020, I&E filed its Expedited Motion to Extend the Statutory Suspension Period During the Emergency Interruption of Normal Operations of the Pennsylvania Public Utility Commission (“Expedited Motion”). I&E filed its Expedited Motion in response to the ongoing Coronavirus Pandemic requesting a twelve-day extension of the suspension period from January 23, 2021 to February 4, 2021. As stated in the Expedited Motion, I&E

has been in telework status since March 16, 2020. In addition to the change in operations due to the pandemic, there are currently four major base rate cases in addition to the instant proceeding along with other matters assigned to I&E. I&E is fully capable and willing to review the Company's rate filing; however, the twelve-day extension is important to ensure that I&E has sufficient time to analyze Columbia's ratemaking claims; prepare interrogatories, testimony and briefs; and, format and distribute all documents. I&E was mindful of the Company's voluntary delay of its filing so purposefully proposed a reasonable and moderated twelve-day extension.

On May 29, 2020, ALJ Dunderdale instructed the Parties via email to file answers to I&E's Expedited Motion by 9 a.m. on June 2, 2020. On June 2, 2020, Columbia and the OCA filed Answers to I&E's Expedited Motion.

A telephonic prehearing conference was held on June 3, 2020 with ALJ Dunderdale presiding and Chief ALJ Rainey participating to hear arguments concerning the extension of the suspension period. During the prehearing conference, the parties argued their respective positions on the extension proposed in I&E's Expedited Motion. Columbia argued that I&E's request should be denied and also presented its alternative to I&E's request which would allow the extension to February 4, 2021, but keep the effective date for the new rates as January 23, 2021. After deliberation between Chief ALJ Rainey and ALJ Dunderdale, Chief ALJ Rainey granted I&E's Expedited Motion and extended Columbia's suspension to February 4, 2021 and denied Columbia's proposed alternative to recover revenue as of January 23, 2021 through a billing adjustment.

On June 3, 2020, Chief ALJ Rainey issued the Order granting I&E's Expedited Motion.

On June 23, 2020, Columbia filed its Petition for Reconsideration of the Chief Administrative Law Judge’s June 3, 2020 Order Extending the Statutory Suspension Period.

In this timely Answer, I&E respectfully requests that the Commission deny Columbia’s Petition for Reconsideration for the reasons set forth below.

II. ANSWER TO PETITION

A. THE COMMISSION’S EMERGENCY ORDER GRANTED THE AUTHORITY TO EXTEND STATUTORY DEADLINES

As mentioned above, on March 6, 2020, the Governor of the Commonwealth of Pennsylvania, Tom Wolf, (“Governor Wolf”) issued a Proclamation of Disaster Emergency² wherein it states: “WHEREAS, a novel coronavirus (now known as “COVID-19”) emerged in Wuhan, China, began affecting humans in December 2019, and has since spread to 89 countries, including the United states” The Proclamation further states: “... NOW THEREFORE, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. § 7101, *et seq*, I do hereby proclaim the existence of a disaster emergency throughout the Commonwealth.” This Proclamation was originally in effect for ninety (90) days and was extended an additional ninety days on June 3, 2020. The Proclamation states: “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.”

² Proclamation of Disaster Emergency (March 6, 2020) <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>

On March 15, 2020, Governor Wolf, through the Deputy Secretary for Human Resources and Management, issued an Executive Order implementing telework protocol for at least 14 days beginning March 16, 2020, and the closing of all state offices in Dauphin County and the Capitol Complex. As a result, the Commission's offices, including I&E's offices were closed. The Executive Order instituted the state's telework protocol for the foreseeable future.

Under normal circumstances, base rate cases generally operate on a nine-month statutory time frame under 66 Pa. C.S. §1308. If for some reason, the Commission were unable to render a decision within that time frame, Section 1308 provides that the rate increase would go into effect at the end of the statutory period as the rates were filed, subject to refund plus interest for amounts that are later deemed not to be just and reasonable.

On March 20, 2020, the Commission issued an Emergency Order at Docket No. M-2020-3019262, that provided for the suspension, extension, or waiver of statutory or regulatory deadlines where necessary during the course of the Governor's Proclamation of Disaster Emergency.³ The Emergency Order states "...in 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."⁴

The Commission's Emergency Order correctly noted that the closure of Commission offices presents "many challenges for the Commission, the regulated community, and the

³ See also, 35 Pa. C.S. § 7301(f)(1).

⁴ Re: Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements, Docket No. M-2020-3019262 (Emergency Order entered March 20, 2020).

public.”⁵ The Emergency Order further explained that while the Commission and the regulated community “operate under reasonable statutory and regulatory deadlines necessary to ensure timely administration of the Public Utility Code,” the Commission is cognizant that some deadlines may, at this juncture, hinder the public service mission of the Commission and its stakeholders.⁶ Therefore, while the Emergency Order encourages parties before the Commission to cooperate regarding the suspension, extension, waiver, or change or regulatory, statutory or procedural deadlines, it also, however, noted that all statutory, regulatory or procedural deadlines prescribed by the Public Utility Code or applicable law may be extended, waived or changed as a result of the Governor’s Proclamation of Disaster Emergency.

Importantly, in response to the Commission’s March 20 Emergency Order, neither Columbia nor other stakeholders filed a Petition for Reconsideration, or Clarification challenging the Commission’s authority to alter statutory and regulatory deadlines in this manner. The absence of objection or request for clarification as it pertains to the Commission’s March 20 Emergency Order only furthers I&E’s position that the Company acknowledged the Commission’s authority when the Order was issued.

Accordingly, based upon the clear language of Governor Wolf’s Executive Order and the Commission’s Emergency Order issued on March 20, Chief Administrative Law Judge Rainey appropriately granted I&E’s requested twelve-day extension of the statutory period.

⁵ *Id.* at p. 4.

⁶ *Id.* at p. 2.

B. I&E AGREED WITH THE COMPANY'S ALTERNATIVE PROPOSAL

In its Answer to I&E's Expedited Motion, Columbia put forth an alternative proposal to resolve I&E's Motion.⁷ The Company proposed a compromise that provided for an extension of the procedural schedule that would result in a Commission final decision on February 4, 2021, with any rate increase becoming effective as of the original suspension date of January 23, 2021. Upon approval of new rates, Columbia would implement a billing adjustment to recover the new rates back to the original suspension period date.

I&E voiced its agreement with the Company's proposal at the telephonic prehearing conference. I&E's Expedited Motion sought an extension of the statutory deadline in order to ensure it had sufficient time to review Columbia's ratemaking claims in its base rate case. Columbia's proposed alternative resolves I&E's concerns by allowing the parties an additional twelve days for the procedural schedule.

Accordingly, if the Commission grants Columbia's Petition for Reconsideration and denies I&E's Expedited Motion, I&E requests that the Commission impose the Company's alternative position as the parties are currently operating on a procedural schedule that affords the extra time. Under the currently approved schedule, I&E must serve direct testimony on July 28, 2020. I&E is engaging in discovery and is drafting testimony to meet that procedural deadline. Denying I&E's Expedited Motion in its entirety and disallowing the twelve additional days granted by Chief ALJ Rainey and which all parties are currently reliant circumvents I&E's ability to fully develop its case and is contrary to the public interest. To be clear, it is I&E's understanding that Columbia is not requesting that the

⁷ Columbia's Answer to I&E's Expedited Motion, Docket No. R-2020-3018835, p 13.

procedural schedule be altered but only requesting that the recovery period begin on January 23, 2021.⁸

III. CONCLUSION

For the reasons stated above, I&E respectfully requests that the Commission deny the Petition for Reconsideration of Columbia Gas of Pennsylvania, Inc. However, if the Commission decides that the Columbia base rate case suspension date of January 23, 2021 applies, I&E respectfully requests that the suspension date only apply to the effective date of new rates and not impact the procedural schedule approved by Administrative Law Judge Dunderdale.



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(717) 783-6170

Dated: July 6, 2020

⁸ Columbia Gas Petition for Reconsideration filed June 23, 2020 at Docket No. R-2020-3018835, p. 12.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Answer to the Petition for Reconsideration of Columbia Gas of Pennsylvania, Inc.** dated July 6, 2020, in the manner and upon the persons listed below:

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