**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2016-2529660

Office of Consumer Advocate : C-2016-2535301

Office of Small Business Advocate : C-2016-2538051

Pennsylvania State University : C-2016-2541623

Columbia Industrial Intervenors : C-2016-2541753

Ralph Miller : C-2016-2538611

Michael Pikus: C-2016-2538843

Richard Collins : C-2016-2547479

James Testrake: C-2016-2555931

:

v. :

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Columbia Gas of Pennsylvania, Inc. :

**PROTECTIVE ORDER**

An Interim Order has been requested granting the unopposed Motion of Columbia Gas of Pennsylvania, Inc. for a Protective Order, which was submitted to the Administrative Law Judge via electronic filing on Wednesday, July 27, 2016, pursuant to the provisions of 52 Pa. Code §5.365(a).

THEREFORE,

IT IS ORDERED:

1. That a Protective Order is hereby granted with respect to all materials and information identified in Paragraphs 2 and 3 below, which have been or will be filed with the Commission, produced in discovery, 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. That the materials 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. That “Confidential” materials are those material 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. That 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. That information deemed “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. That 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 Consumer 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. That if an expert for a Party, another member of the expert’s firm or the expert’s firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person, said expert must: (1) identify for the Parties 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 Parties or their customers. The producing Party retains the right to challenge the adequacy of the written assurances that the non-producing Party or its customers’ interests will not be jeopardized.

8. That 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. That 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. That 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. That 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. That parts 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. That the non-producing 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.

14. That 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.

15. That 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.

Date: August 2, 2016 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Katrina L. Dunderdale

Administrative Law Judge

APPENDIX A

**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2016-2529660

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Richard Collins : C-2016-2547479

James Testrake: C-2016-2555931

:

v. :

:

Columbia Gas of Pennsylvania, Inc. :

TO WHOM IT MAY CONCERN:

The undersigned is a Reviewing Representative of \_\_\_\_\_\_\_\_\_\_\_, a Party to this proceeding (“Party”), and is not, or has no knowledge or basis for believing that he/she is a “Restricted Person” as that term is defined in paragraph No. 7, pages 3 and 4 of the Protective Order executed on behalf of the Party with regard to the above-referenced proceeding. The undersigned has read and understands the Protective Order in the above-referenced proceeding, which Protective Order deals with the treatment of Proprietary Information. The undersigned agrees to be bound by, and comply with, the terms and conditions of said Protective Order.

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DATE SIGNATURE

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PRINT NAME

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ADDRESS

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EMPLOYER

**R-2016-2529660 - PA PUBLIC UTILITY COMMISSION v. COLUMBIA GAS OF PENNSYLVANIA INC***(Revised 7/13/16)*

MICHAEL W HASSELL ESQUIRELILLIAN S HARRIS ESQUIRE

LINDSAY A BERKSTRESSER ESQUIRE

POST & SCHELL PC12TH FLOOR17 NORTH SECOND STREETHARRISBURG PA 17101-1601***Accepts e-Service***

**\***THEODORE J GALLAGHER ESQUIREMEAGAN BIELANIN MOORE ESQUIRE

COLUMBIA GAS OF PENNSYLVANIA INC121 CHAMPION WAY SUITE 100CANONSBURG PA 15317**\**Accepts e-Service***

ANDREW S TUBBS ESQUIRENISCOURCE CORPORATE SERVICES COMPANY

800 N THIRD STREET SUITE 204HARRISBURG PA 17102***Accepts e-Service***

**\***ERIN L GANNON ESQUIRELAUREN M BURGE ESQUIRE

AMY E HIRAKIS ESQUIRE

OFFICE OF CONSUMER ADVOCATE555 WALNUT STREET 5TH FLOORFORUM PLACEHARRISBURG PA 17101**C-2016-2535301**

***\*Accepts e-Service***

DANIEL G ASMUS ESQUIREOFFICE OF SMALL BUSINESS ADVOCATE300 NORTH SECOND STREET SUITE 202HARRISBURG PA 17101**C-2016-2538051**

CARRIE B WRIGHT ESQUIREPA PUBLIC UTILITY COMMISSION

BUREAU OF INVESTIGATION AND

ENFORCEMENT

PO BOX 3265HARRISBURG PA 17105-326520***Accepts e-Service***

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*(For Shipley Choice et al)*

WHITNEY E SNYDER ESQUIRE

HAWKE MCKEON AND SNISCAK LLP100 NORTH TENTH STREETHARRISBURG PA 17101***Accepts e-Service***

*(For Interstate Gas Supply Inc., et. al)*

JOSEPH L VULLO ESQUIREBURKE VULLO REILLY ROBERTS1460 WYOMING AVENUEFORTY FORT PA 18704***Accepts e-Service****(For Community Action Assoc of PA)*

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CHRISTOPHER M ARFAA ESQUIRE

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**C-2016-2541623**

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*(For Direct Energy)*

CHARIS MINCAVAGE ESQUIRE

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*(For Columbia Industrial Intervenors)*

RALPH MILLER3638 KORTNI DRIVEDOVER PA 17315**C-2016-2538611**

MICHAEL PIKUS430 ASCENT DRIVE # 9103WEXFORD PA 15090**C-2016-2538843**

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**C-2016-2555931**