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August 23, 2022

***By Electronic Filing***

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

Re: Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.;  
Docket No. R-2022-3031211; C-2022-3031957; **THE PENNSYLVANIA  
STATE UNIVERSITY'S BRIEF IN SUPPORT OF PARTIAL  
SETTLEMENT (PUBLIC VERSION)**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is The Pennsylvania State University's Brief in Support of Partial Settlement ([Public Version](#)) in the above-captioned docket. Copies of this document have been served in accordance with the attached Certificate of Service.

If you have any questions with regard to this filing, please direct them to me. Thank you for your attention to this matter.

Very truly yours,

*/s/ Whitney E. Snyder*

Thomas J. Sniscak  
Whitney E. Snyder  
Phillip D. Demanchick Jr.

*Counsel for The Pennsylvania State University*

WES/das

Enclosure

cc: ALJ Christopher P. Pell (via email, [cpell@pa.gov](mailto:cpell@pa.gov))  
ALJ John Coogan (via email [jcoogan@pa.gov](mailto:jcoogan@pa.gov))  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2022-3031211
	:	
Columbia Gas of Pennsylvania, Inc.	:	

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**PUBLIC VERSION**

**BRIEF OF THE PENNSYLVANIA STATE UNIVERSITY  
IN SUPPORT OF THE JOINT PETITION FOR NON-UNANIMOUS SETTLEMENT  
ON RATE ALLOCATION AND RATE DESIGN**

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## I. INTRODUCTION

Columbia Gas of Pennsylvania, Inc. (“Columbia Gas” or the “Company”), the Bureau of Investigation & Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), the Columbia Industrial Intervenors (“CII”), the Pennsylvania Weatherization Providers Task Force (“PWPTF”), Retail Energy Supply Association, Shipley Choice, LLC, and NRG Energy, Inc. (“RESA/NGS”) and The Pennsylvania State University (“PSU”) (collectively, “Rate Structure Petitioners”) have entered into a non-unanimous black box settlement to resolve the rate allocation and rate design issues in this proceeding (“Rate Allocation/Design Settlement”). The Rate Allocation/Design Settlement will be filed on September 2, 2022.<sup>2</sup>

The Rate Allocation/Design Settlement justly and reasonably allocates the agreed upon revenue requirement of [BEGIN CONFIDENTIAL] ██████████ END CONFIDENTIAL], is in the public interest, is a fair and balanced black box approach,<sup>3</sup> and should be approved. It is the policy of the Commission to encourage settlements. 52 Pa. Code § 5.231.

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<sup>2</sup> In addition to the Rate Allocation/Design Settlement, all parties to the proceeding have reached unanimous agreement with respect to all other issues in this proceeding. The Joint Petition for Unanimous Settlement (“Unanimous Settlement”) will be filed along with the Joint Petition for Rate Allocation/Design Settlement for consideration and disposition by the Presiding Officers and the Commission. The Unanimous Settlement proposes a reduced revenue increase of [BEGIN CONFIDENTIAL] ██████████ END CONFIDENTIAL] among other items. The Rate Allocation/Design Settlement equitably and reasonably supplements the terms of the Unanimous Settlement.

<sup>3</sup> The Commission has explained:

We have historically permitted the use of “black box” settlements as a means of promoting settlement among the parties in contentious base rate proceedings. Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company's revenue requirement is a calculation involving many complex and

The Rate Allocation/Design Settlement was achieved after extensive scrutiny of Columbia Gas' filing (and data in support thereof), analysis of voluminous interrogatories, the significant testimony and varying positions concerning rate allocation and rate design, and subsequent extensive negotiation representing give and take by the settling parties. The Rate Structure Petitioners were able to come to a just and reasonable rate structure and design, within the broad array of litigation positions of the parties. The rate structure and design is based within the range of the varying positions of the parties in this proceeding to create a rate structure under the black box revenue requirement that is just and reasonable. The Rate Allocation/Design Settlement provides for the collection of the increase in revenues to be distributed as follows:

[BEGIN CONFIDENTIAL]

Class	Current Base Revenue <sup>4</sup>	Allocation	Percentage Increase <sup>5</sup>	Increase Relative To The System Average Inc. <sup>6</sup>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

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interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company's cost of capital. *Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases.*

*Pa. Pub. Util. Comm'n v. Peoples TWP, LLC*, Docket No. R-2013-2355886, 2013 WL 6835105, at \*16 (Opinion and Order entered Dec. 19, 2013) (citations omitted) (emphasis added).

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**[END CONFIDENTIAL]**

The settlement's black box proposed revenue allocation and scale back leads to a balanced, moderate, and reasonable settlement compromise of the competing revenue allocations presented in this proceeding. PSU notes that it is the Commission's policy to encourage settlements.<sup>7</sup> Moreover, as the Commission has recognized, "cost-of-service studies are far from being an exact art and are, essentially, a useful tool for testing the reasonableness of the revenue requirement. A considerable amount of judgment is inherent in the development of cost-of-service studies, appropriate rate changes, and the allocation of allowable revenues among the various classes of customers." *Pa. Pub. Util. Comm'n v. Pa. Power and Light Co.*, Docket No. R-842651, *et al.*, 1985 WL 1205434, at \*84 (Opinion and Order entered Apr. 25, 1985). The Rate Structure Petitioners engaged in extensive and meaningful settlement discussions to seek an amicable resolution of the issues in the case which incorporate the judgment of all of the Rate Structure Petitioners to achieve a mutually acceptable compromise of positions that is in the public interest. The Rate Allocation/Design Settlement is the result of those discussions and Rate Structure Petitioners' collective judgment.

PSU respectfully requests that presiding Administrative Law Judges Christopher P. Pell and John M. Coogan (collectively, "Presiding Officers") recommend approval, without modification, of the Rate Allocation/Design Settlement that will be filed on September 2, 2022.

**A. Procedural History**

On March 18, 2022, Columbia filed Supplement No. 337 to Tariff Gas – Pa. P.U.C. No. 9 ("Supplement No. 337") with the Pennsylvania Public Utility Commission ("Commission") to become effective May 17, 2022. By way of Supplement No. 337, Columbia sought Commission

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<sup>7</sup> 52 Pa. Code § 5.231.

approval to increase its rates to produce additional annual distribution revenues of \$82.2 million based on a fully projected future test year (FPFTY) ending on December 31, 2023.

On April 14, 2022, 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. 337 until December 17, 2022, by operation of law. The case was assigned to the Office of Administrative Law Judge ("OALJ") and further assigned to Deputy Chief Administrative Law Judges Christopher P. Pell and John Coogan.

On April 15, 2022, PSU filed a formal Complaint to the proposed rate increase. PSU is a major sales and distribution customer of Columbia at its University Park Campus and at its Beaver, Fayette, Mont Alto, and York Campuses, as well as at the PSU Fruit Research and Extension Center in Biglerville, Pennsylvania. Formal Complaints were also filed by the OCA and the Office of Small Business Advocate ("OSBA"). Individual consumer complaints were filed by Jose A. Serrano, Constance Wile, and Richard C. Culbertson. Petitions to Intervene were filed by The Pennsylvania Weatherization Providers Task Force, CAUSE-PA, RESA/NGS Parties, the Natural Resources Defense Council ("NRDC"), and CII.

In accordance with the litigation schedule in this proceeding, PSU submitted the Direct, Rebuttal, and Surrebuttal Testimonies of James L. Crist, P.E., in support of PSU's position in this matter.<sup>8</sup> Evidentiary Hearings were held on August 3, 2022, where the evidence and testimony of PSU and the other parties was admitted into the evidentiary record.

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<sup>8</sup> Mr. Crist is a Registered Professional Engineer in the Commonwealth of Pennsylvania, with over 25 years of experience providing consulting services focused on regulated and deregulated energy company strategy, market strategy and regulatory issues. PSU St. 1 at 1:12-18. Prior to his consulting practice, Mr. Crist served as Vice President of Marketing for Equitable



During this proceeding, the parties engaged in extensive and thorough settlement negotiations. The parties made diligent attempts to settle the issues in this proceeding. As a result of those efforts, the parties were able to reach a unanimous agreement on all issues except rate allocation and rate design. The parties agreed to, among other things, a smaller than requested revenue increase of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL]. Once an agreement was reached relative to revenue requirement and the other issues in the proceeding, the parties begin discussing settlement related to revenue allocation and rate design. Due to the competing positions among the parties, extensive compromise was needed to reach a resolution on revenue allocation and rate design that was acceptable to all parties. After much discussion, the parties reached a resolution on revenue allocation and rate design that was acceptable to all parties, except for OSBA. The parties determined to enter into the Rate Allocation/Design Settlement.

On August 17, 2022, the parties informed the Presiding Officers that an agreement in principle to settle all issues among the settling parties, excluding revenue allocation and rate design, had been reached. Subsequently, on August 19, 2022, the parties informed the Presiding Officers that a non-unanimous agreement in principle to settle revenue allocation and rate design had been reached. In response, the Presiding Officers requested that parties provide briefs addressing the Rate Allocation/Design Settlement and statements in support addressing the Unanimous Settlement as to all other issues.

PSU now submits this Brief in Support of the Rate Allocation/Design Settlement.

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Resources, Vice President of Marketing for Citizens Utilities, and Marketing Director at the Peoples Natural Gas Co. PSU St. 1 at 1:20 – 2:11.

## B. Legal Standards

Section 1301(a) of the Code mandates that “[e]very rate made, demanded, or received by any public utility . . . shall be just and reasonable, and in conformity with [the] regulations or orders of the [C]ommission.” 66 Pa. C.S. § 1301(a). Pursuant to the just and reasonable standard, a utility may obtain “a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers [,] as well as a reasonable rate of return on its investment.” *City of Lancaster Sewer Fund v. Pa. Pub. Util. Comm’n*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002) (*City of Lancaster*). Importantly, there is no single way to arrive at just and reasonable rates, and “[t]he [Commission] has broad discretion in determining whether rates are reasonable” and “is vested with discretion to decide what factors it will consider in setting or evaluating a utility’s rates.” *Popowsky v. Pa. Pub. Util. Comm’n*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996) (*Popowsky II*).

The burden of proof to establish the justness and reasonableness of every element of a public utility’s rate increase request rests solely upon the public utility in all proceedings filed under Section 1308(d) of the Code. 66 Pa. C.S. § 1308(d). The standard to be met by the public utility is set forth in Section 315(a) of the Code, 66 Pa. C.S. § 315(a), as follows:

Reasonableness of rates. – In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

It is well-established that the evidence adduced by a utility to meet this burden must be substantial. *Lower Frederick Twp. Water Co. v. Pa. Pub. Util. Comm’n*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980) (emphasis added). *See also, Brockway Glass Co. v. Pa. Pub. Util. Comm’n*, 437 A.2d 1067 (Pa. Cmwlth. 1981).

In considering settlements, the Commission must determine whether the settlement rates are just and reasonable and whether the settlement is in the public interest. *See* 66 Pa. C.S. § 1301;

*Pa. Pub. Util. Comm'n v. C.S. Water and Sewer Associates*, 74 Pa. PUC 767 (1991); *Pa. Pub. Util. Comm'n v. Philadelphia Electric Company*, 60 Pa. PUC 1 (1985).

In recognition of its regulation promoting settlements at 52 Pa. Code § 5.231(a), the Commission has set forth settlement guidelines and procedures for major rate cases at 52 Pa. Code § 69.401, including partial settlements, which states:

In the Commission's judgment, the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding. ***It is also the Commission's judgment that the public interest will benefit*** by the adoption of §§ 69.402-69.406 and this section which establish guidelines and procedures designed to encourage full ***and partial settlements*** as well as stipulations in major section 1308(d) general rate increase cases. ***A partial settlement is a comprehensive resolution of all issues in which less than all interested parties have joined.***

Moreover, the Commission has historically permitted the use of "black box" settlements as a means of promoting settlement:

We have historically permitted the use of "black box" settlements as a means of promoting settlement among the parties in contentious base rate proceedings. Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company's revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company's cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases.

*Pa. Pub. Util. Comm'n v. Peoples TWP, LLC*, Docket No. R-2013-2355886, 2013 WL 6835105, at \*16 (Opinion and Order entered Dec. 19, 2013) (citations omitted). The Commission has also stated:

Despite the policy favoring settlements, the Commission does not simply rubber stamp settlements without further inquiry. In order to accept a settlement such as those proposed here, the Commission

must determine that the proposed terms and conditions are in the public interest. The focus of the inquiry for determining whether a proposed settlement should be approved by the Commission is whether the proposed terms and conditions foster, promote and serve the public interest. Because the Joint Petitioners request the Commission enter an order in this proceeding approving the Partial Settlement without modification, they share the burden of proof to show that the terms and conditions of the Partial Settlement are in the public interest.

*Pa. Pub. Util. Comm'n v. PECO Energy Co.*, Docket No. R-2018-3000164, *slip op.* at 15 (Order entered Dec. 20, 2018).

It is unusual for a proposed settlement in a general base rate case to be rejected. *Pa. Pub. Util. Comm'n, et al. v. Community Utilities of Pa., Inc. – Wastewater Division*, Docket Nos. R-2021-3025206, *slip op.* at 10 (Opinion and Order entered Jan. 13, 2022) (reversing the presiding officer's order recommending rejection of a joint petition for settlement of a rate case concluding that on balance, the settlement is in the public interest and should be approved); *see also Pa. Pub. Util. Comm'n v. Pike County Light and Power Co. – Electric*, Docket Nos. R-2020-3022135, *et al.*, *slip op.* at 35-37 (Opinion and Order entered Jul. 12, 2021) (approving a rate design settlement notwithstanding OSBA's opposition because the settlement fairly and equitably resolves the issues impacting residential consumers, business customers, and the public interest at large and represents a fair balance of the interests of Pike County Light and Power Co. and its customers).

For the reasons set forth below, PSU submits that the terms of the Rate Allocation/Design Settlement are in the public interest and results in just and reasonable rates.

## II. SUMMARY OF ARGUMENT

Allocation of a rate increase must be based on cost of service,<sup>9</sup> which entails a collection of wide-ranging, including subjective, judgments.<sup>10</sup> Here, the record demonstrates this principle, with parties disagreeing over: the cost-of-service study to be utilized, the correct execution of the study, the implementation of the study, and appropriate adjustments to the study results for allocation. To be clear, no party to this litigation purely relies upon the unadulterated results of one specific cost of service study, but instead, while using a study or studies as a basis, takes the study and makes adjustments to come to a conclusion which in that parties' judgement is just and reasonable. Unsurprisingly, in large part, the selection of study, implementation and execution thereof, and "judgment" for adjustments reflect the allocation that is most beneficial to the class of customers that each party represents.<sup>11</sup>

The litigation positions and outcomes here show why the Rate Allocation/Design Settlement is just, reasonable, in the public interest, balanced, and moderate. The table below shows the wide range of outcomes of the allocations parties proposed in litigation along with the Rate Allocation/Design Settlement. Notably, the Rate Allocation/Design Settlement is within the range of these litigation positions. That is quantitative proof that the judgment of each of the parties was considered (including OSBA) and melded together in a black box to come to a settlement that is just and reasonable and represents an amicable resolution of the issues in the case incorporating the judgment of all of the Rate Structure Petitioners to achieve a mutually acceptable compromise of positions that is in the public interest. The Rate Allocation/Design Settlement also

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<sup>9</sup> *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1015 (Pa. Cmwlth. 2006).

<sup>10</sup> *Pa. Pub. Util. Comm'n v. Pa. Power and Light Co.*, Docket No. R-842651, *et al.*, 1985 WL 1205434, at \*84 (Opinion and Order entered Apr. 25, 1985).

<sup>11</sup> The Company and I&E do not represent specific classes of ratepayers.

means the Commission does not need to decide (and potentially err in deciding) hotly contested issues such as appropriate cost of service studies (which can vary based on the evidence presented in each particular case for each particular utility) and applications of or adjustments thereto all the while keeping considerations such as gradualism in mind. Instead, the Commission is presented with a settlement that incorporates the judgment of all the parties and demonstrates gradualism, which no litigated outcome will achieve. The Commission should approve the Rate Allocation/Design Settlement as it is just, reasonable, and in the public interest.

Below is a chart comparing the percentage of the overall revenue increase that is assigned to each customer class, which demonstrates that the Rate Allocation/Design Settlement is within the range of expected outcomes:

**[BEGIN CONFIDENTIAL]**

<b><u>Percent of Overall Increase Assigned to Particular Customer Class</u></b>					
	<u>RS/RD</u>	<u>SGSS1/SCD1/SGD</u>	<u>SGSS2/SCD2/SGD</u>	<u>SDS/LGS</u>	<u>LDS/LGS</u>
	<u>S</u>	<u>S1</u>	<u>S2</u>	<u>S</u>	<u>S</u>
<b>Columbia<sup>12</sup></b>					
<b>I&amp;E<sup>13</sup></b>					
<b>OCA<sup>14</sup></b>					
<b>OSBA<sup>15</sup></b>					
<b>PSU<sup>16</sup></b>					
<b>Settlement</b>					

**[END CONFIDENTIAL]**

<sup>12</sup> CPA St. 6 at 20:7-11.

<sup>13</sup> I&E St. 3 at 26:13-18. I&E’s allocation percentages are derived after applying I&E’s proposed scale back methodology to the agreed-upon revenue increase.

<sup>14</sup> OCA St. 3-SR at 4, Table 1-SR.

<sup>15</sup> OSBA St. 1-S at 6, Table IEC-S3.

<sup>16</sup> PSU St. 1-SR, Exh. PSU-SR-1.

## **IX. ARGUMENT – RATE STRUCTURE, REVENUE ALLOCATION**

Revenue allocation and rate design was a highly contested issue in this proceeding, with parties presenting competing views on the appropriate cost-of-service study, varying allocation proposals among the rate classes, and different rate design concerns. Given the party’s differing positions, and the range of likely outcomes in this proceeding, the Rate Allocation/Design Settlement is the result extensive and meaningful settlement discussions between the parties providing an outcome that is within these ranges, is in the public interest, results in just and reasonable rates, and demonstrates gradualism.

### **A. Litigation Positions of the Parties**

In Columbia Gas’s initial rate filing, Company witness Mr. Johnson (Statement No. 6) explained that as in past base rate cases the Company conducted two Cost of Service Studies (“COSS”) and then produced an average of the two, or three studies in all.<sup>17</sup> The two studies, known as the customer-demand study and the peak & average study, allocate the cost of natural gas mains differently. Mr. Johnson also produced the average study.<sup>18</sup> In prior rate cases, including the recent 2020 Columbia base rate case, Columbia’s rate design witnesses used the average study as the primary guide for allocation of the revenue increase.<sup>19</sup> However, in this proceeding, Mr. Johnson used the peak & average COSS.<sup>20</sup> Mr. Johnson’s reliance on the peak & average COSS, however, was due to the Commission’s decision in Columbia Gas’ 2020 base rate proceeding, where the Commission accepted the peak & average method for purposes of that proceeding.<sup>21</sup>

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<sup>17</sup> CPA St. 6 at 4:1-19.

<sup>18</sup> PSU St. 1 at 4:4-11.

<sup>19</sup> PSU St. 1 at 11:8-10.

<sup>20</sup> CPA St. 6 at 17:17-18.

<sup>21</sup> CPA St. 6 at 4:10-12.

Using the results of the peak & average COSS as a guide for revenue allocation, Mr.

Johnson recommended the following revenue allocation in this proceeding:

<b>CPA As-Filed Revenue Allocation<sup>22</sup></b>							
Total	RS/RDG/ RGSS/RDS/ RDGDS/RC2	SGSS1/ SCD1/ SGDS1	SGSS2/ SCD2/ SGDS2	SDS/LGS	LDS/LGS	MDS/ NSS	Flex/ NCS
\$82,059,553	\$56,386,460	\$6,919,288	\$7,332,309	\$6,158,833	\$5,250,626	--	\$12,035

As Company witness Johnson testified, the Company sought to allocate the revenue increase in a manner that achieves efficiency, simplicity, continuity, fairness, and earnings stability.<sup>23</sup>

In response to the as-filed position of Columbia Gas, I&E, OCA, and OSBA agreed with the Company's decision to utilize the peak & average COSS as a guide to revenue allocation. The parties again cited to the Commission's decision in the 2020 base rate proceeding of Columbia Gas where the Commission accepted the peak & average COSS as a guide for revenue allocation.<sup>24</sup> OCA, I&E, and OSBA, however, all put forth different revenue allocation proposals. Below is a comparison of the various allocation proposals:

<b>Summary of Various Proposed Revenue Allocations Based on Peak &amp; Average COSS</b>			
	<b>Columbia</b>	<b>OSBA<sup>25</sup></b>	<b>OCA<sup>26</sup></b>
<b>RS/RDG/ RGSS/RDS/ RDGDS/RC2</b>	\$56,386,460	\$48,860,000	\$46,536,908
<b>SGSS1/SCD1/ SGDS1</b>	\$6,919,288	\$6,870,000	\$9,536,000
<b>SGSS2/SCD2/ SGDS2</b>	\$7,332,309	\$10,990,000	\$11,132,000
<b>SDS/LGSS</b>	\$6,158,833	\$8,530,000	\$8,149,000

<sup>22</sup> CPA Exh. 103, Sch. 8, Pg. 4, Line 19.

<sup>23</sup> CPA St. 6 at 16:16-17.

<sup>24</sup> OCA St. 3 at 5:18-21; I&E St. 3 at 12:1-5; OSBA St. 1 at 15:1-5.

<sup>25</sup> OSBA St. 1-SR at 6, Table IEc-S3.

<sup>26</sup> OCA St. 3-SR at 4, Table 1-SR.



<b>LDS/LGSS</b>	\$5,250,626	\$6,780,000	\$6,785,000
<b>MDS/NSS</b>	--	--	--
<b>Flex/NCS</b>	\$12,035	\$10,000	\$13,000

In addition to these allocation proposals, I&E did not object to the allocation proposal of Columbia Gas, but recommended that if a smaller than requested revenue increase is granted by the Commission, that the first \$20 million of any scale back be applied to the RSS/RDS class and that any remaining reduction should be applied on a proportional basis to the percentage increases shown on I&E Ex. No. 3, Sch. 6, p. 2, line 16, except for the SDS/LGSS and LDS/LGSS classes.<sup>27</sup>

In other words, I&E recommended that the SDS/LGSS and LDS/LGSS classes receive no benefit from any scale back in this proceeding.

PSU, however, disagreed with the litigation positions of the Company, OCA, OSBA, and I&E. For one, PSU disagreed that the peak & average COSS is the preferred COSS, recommending that the Commission adopt the customer-demand COSS. PSU witness, Mr. Crist, testified that because mains investment and their maintenance costs are the largest component of rate base and operating expenses, it is critical that the COSS reflect the Company's actual process of planning, designing, and constructing natural gas mains.<sup>28</sup> Based upon discovery responses to PSU interrogatories and engineering experience, Mr. Crist concluded that the mains investment is determined based upon peak demand and customer location, not based on annual throughput.<sup>29</sup> Accordingly, Mr. Crist recommended that the customer-demand study is the appropriate COSS method to use in this proceeding.

Moreover, Mr. Crist argued that the Commission should rely on the customer-demand COSS notwithstanding the Commission's 2020 decision to utilize the peak & average COSS

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<sup>27</sup> I&E St. 3 at 26:13-18.

<sup>28</sup> PSU St. 1 at 14:6-12.

<sup>29</sup> PSU St. 1 at 16:37 – 17:2.

because the 2020 decision would have relied on the customer-demand COSS if not for the alleged ‘errors’ that were identified in that case.<sup>30</sup> Here, those ‘errors’ are no longer present in the customer-demand COSS.<sup>31</sup> Furthermore, the Commission is not bound by *stare decisis* or precedent and is only required to explain why a different result or conclusion is warranted where it rules differently in like circumstances. *PECO Energy Co. v. Pa. Pub. Util. Comm’n*, 791 A.2d 1155, 1166 (Pa. 2002) (*PECO*); *see also Baker v. U.S.*, 338 F. Supp. 331, 336 (Pa. E.D. 1972).

Thus, PSU witness, Mr. Crist, presented various revenue allocations based on the customer-demand COSS. The first proposal would allocate the rate increase in a manner that strictly adheres to cost of service ratemaking principles, whereas the two alternative proposals balanced other considerations, such as gradualism. The allocations were as follows:

<b>PSU Revenue Allocation<sup>32</sup></b>								
	Total	RS/RDG/ RGSS/RDS/ RDGDS/RC2	SGSS1/ SCD1/ SGDS1	SGSS2/ SCD2/ SGDS2	SDS/LGS	LDS/LGS	MDS/ NSS	Flex/ NCS
Alt. 1	\$82,151,908	\$117,717,664	\$4,612,170	(\$17,461,926)	(\$12,517,652)	(\$10,212,652)	\$225	\$13,651
Alt. 2	\$82,151,908	\$82,138,032	\$0	\$0	\$0	\$0	\$225	\$13,651
Alt. 3	\$82,151,908	\$62,523,281	\$6,750,000	\$8,100,000	\$2,932,348	\$1,832,404	\$225	\$13,651

In response, OCA, OSBA, and I&E, largely disagreed with PSU arguing that the Commission relied upon the peak & average COSS in the 2020 base rate proceeding of Columbia Gas.<sup>33</sup>

However, Columbia Gas provided evidence that the peak & average COSS does over allocate mains investment to the larger industrial customers. More specifically, Columbia Gas

<sup>30</sup> PSU St. 1 at 12:11 – 13:26.

<sup>31</sup> *Id.*

<sup>32</sup> PSU St. 1-SR, Exh. PSU-1SR.

<sup>33</sup> I&E St. 3-R at 5:7-18; OCA St. 3R at 10:3-17; OSBA St. 1-R at 2:1-3.

witness Mr. Johnson found that the peak & average COSS allocated approximately 13 miles of pipe to each of the 76 LDS/LGSS customers even though Columbia Gas only extended its system in the range of 0.04 to 1.4 miles to each of its 10 largest customers.<sup>34</sup> Thus, Columbia Gas argued its revenue allocation is more appropriate because while it utilizes the peak & average COSS, it mitigated some of the revenue allocation to the largest customers due to this over allocation of mains investment under the peak & average COSS.<sup>35</sup>

Collectively, these are the positions of the parties when entering settlement negotiations on revenue allocation and rate design.

**B. The Rate Allocation/Design Settlement is Just and Reasonable**

Given the wide-ranging positions among the parties, an extensive compromise was reached by way of the Rate Allocation/Design Settlement, which now proposes the following revenue allocation:

[BEGIN CONFIDENTIAL]

<b>Rate Allocation/Design Settlement Allocation</b>							
Total	RS/RDG/ RGSS/RDS/ RDGDS/RC2	SGSS1/ SCD1/ SGDS1	SGSS2/ SCD2/ SGDS2	SDS/LGS	LDS/LGS	MDS/ NSS	Flex/ NCS

[END CONFIDENTIAL]

The settled rate allocation and design falls within the range of the litigation positions discussed above, as demonstrated in the chart below:

[BEGIN CONFIDENTIAL]

<sup>34</sup> CPA St. 6-R at 10:5-8.

<sup>35</sup> CPA St. 6-R at 12:3-11.

Comparison of Scaled Back Litigation Positions vs. Settlement Revenue Allocation												
	CPA <sup>1</sup>		OCA <sup>2</sup>		OSBA <sup>3</sup>		I&E <sup>4</sup>		PSU <sup>5</sup>		Settlement	
	Allocation	Increase	Allocation	Increase	Allocation	Increase	Allocation	Increase	Allocation	Increase	Allocation	Increase
RS/RDS	\$											%
SGSS1/S												
CD1/ SGDS1	\$											
SGSS2/S												
CD2/ SGDS2	\$											
SDS/LGS												
LDS/LGS												
MDS/NSS												
Flex/NCS												
<b>Total</b>												
	1 [REDACTED]											
	[REDACTED]											
	[REDACTED]											
	[REDACTED]											
	[REDACTED]											
	[REDACTED]											
	[REDACTED]											

[END CONFIDENTIAL].

The Rate Allocation/Design Settlement is consistent with the record evidence and is the result of compromise on varying opinions and judgments based on the wide-range of ratemaking principles accepted by the Commission and set forth by the parties on the record. The Commission has repeatedly recognized that no single cost of service study methodology is perfect, and reasonable experts can present unique and defensible methodologies from a wide range of beliefs on cost of service study principles which can lead to varying cost of service study results. *See e.g. Pa. Pub. Util. Comm'n v. Philadelphia Elec. Co.*, 31 PUR 4th 15, 84 (1978). The Commission has likewise stated that “cost-of-service studies are far from being an exact art and are, essentially, a useful tool for testing the reasonableness of the revenue requirement. A considerable amount of

judgement is inherent in the development of cost-of-service studies, appropriate rate changes, and the allocation of allowable revenues among the various classes of customers.” *Pa. Pub. Util. Comm’n v. Pa. Power and Light Co.*, Docket No. R-842651, *et al.*, 1985 WL 1205434, at \*84 (Opinion and Order entered Apr. 25, 1985).

Indeed, the non-unanimous settlement not only presents a rate structure that is within the range of likely outcomes in this proceeding, but that recognizes principles of gradualism. More specifically, allocating the increase in the manner set forth in the Rate Allocation/Design Settlement ensures that no single party receives an increase greater than 2 times the system average increase:

[BEGIN CONFIDENTIAL]

Class	Current Base Revenue <sup>36</sup>	Allocation	Percentage Increase <sup>37</sup>	Increase Relative To The System Average Inc. <sup>38</sup>
RS/RDG/RDS/RDGDS/RC2	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
SGSS1/SCD1/SGDS1	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
SGSS2/SCD2/SGDS2	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
SDS/LGS	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
LDS/LGS	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
MDS/NSS	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Flex/NCS	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total	\$ [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[END CONFIDENTIAL]

As indicated above, almost every class receives an increase that is well below 1.5 times the system average increase, and in no event do any of the classes receive an increase greater than 2 times the

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system average, which is consistent with principles of gradualism. *Pa. Pub. Util. Comm'n, et al. v. Columbia Gas of Pa., Inc.*, Docket Nos. R-2020-3018835, *et al.*, 2021 WL 757073, at \*138 (Opinion and Order entered Feb. 19, 2021) (“The record indicates that although there are no definitive rules for determining what kind of rate increase would violate the principle of gradualism, limiting the maximum average rate increase for any particular class to 1.5 to 2.0 times the system average increase is one common metric that has been used by experts in the Commonwealth.”).

Viewed in its entirety, the Rate Allocation/Design Settlement fairly and equitably resolves the issues impacting residential consumers, business customers, and the public interest at large and represents a fair balance of the interests of Columbia Gas and its customers. Moreover, the Rate Allocation/Design Settlement serves to focus the proceedings and eliminate the need for extensive litigation before the Commission. Furthermore, the Settlement provides regulatory certainty with respect to the disposition of issues, which benefits all parties.

### **C. The Rate Allocation/Design Settlement is Superior to OSBA’s Litigation Position**

OSBA’s opposition to the Rate Allocation/Design settlement should not be accepted by the Commission. The Rate Structure Petitioners have developed a proposal that works for all rate classes, recognizes principles of gradualism, and is consistent with the record evidence. Conversely, OSBA’s allocation contemplates allocating significant increases to the medium general (SDS/LGSS) and large general (LDS/LGSS) classes.<sup>39</sup> More specifically, OSBA recommended a 28.4% increase to the medium general (SDS/LGSS) and large general (LDS/LGSS) classes compared to an 11.6% increase to the residential class and a 14.3% increase to the SGS1 class. The medium general and large general classes fare no better under OSBA’s

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<sup>39</sup> OSBA St. 1-S at 6, Table IEC-S3.

position scaled back to the agreed-upon revenue increase, both receiving increases of approximately 15.40%, or approximately 1.85 times the system average increase. These increases are not in the public interest, and do not result in just and reasonable rates.

Indeed, as testified by CII's witness Plank, such increases would detrimentally impact the largest customers who are already struggling in today's economic climate:

Columbia's proposed 22% increase would already significantly impact Knouse, especially in light of the fact that natural gas costs are 50% of Knouse's energy budget. The OCA, OSBA, and I&E proposals would only exacerbate Columbia's proposal, resulting in a damaging impact on Knouse's energy costs. When an approximate 22%-28.4% increase is combined with the uncertainty that Knouse must confront due to the continuing challenges faced by large businesses, the results are especially alarming.

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I would ask the PUC to recognize that these unending and significantly high rate increases that are being applied to Rate LDS are creating innumerable challenges for energy-intensive businesses to weather. Knouse cannot automatically flow through these continuing increases in energy costs to its customers. Rather, Knouse must consider how to address these increases through other means, such as considering the depth and breadth of its workforce. Thus, the Commission, as well as the parties to this proceeding, need to be aware that these continued rate increases not only plague large businesses, but the resulting ramifications on these businesses may extend beyond the businesses themselves to members of the public, such as Knouse employees. Moreover, I understand from counsel that the role of the Commission (as well as I&E) is to balance the interests of all consumer classes with the interests of the utility. With that objective in mind, I respectfully submit that the public interest is best served by recognizing that several of the parties' rate allocation proposals would result in rate shock to Rate LDS customers.<sup>40</sup>

Accordingly, the Commission should not accept the OSBA's position on revenue allocation and rate design.

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<sup>40</sup> CII St. 1 at 8:3 – 9:2.

Rather, the Commission should adopt the Rate Allocation/Design Settlement, which equitably allocates the agreed-upon revenue increase. *See e.g. Pa. Pub. Util. Comm'n v. Pike County Light and Power Co. – Electric*, Docket Nos. R-2020-3022135, *et al.*, *slip op.* at 35-37 (Opinion and Order entered Jul. 12, 2021) (approving a rate design settlement notwithstanding OSBA's opposition because the settlement fairly and equitably resolves the issues impacting residential consumers, business customers, and the public interest at large and represents a fair balance of the interests of Pike County Light and Power Co. and its customers).

## **X. CONCLUSION**

WHEREFORE, for all these reasons, PSU respectfully submits that the Presiding Officers and the Commission approve, without modification, the Rate Allocation/Design Settlement as it is in the public interest and results in just and reasonable rates. The Presiding Officers and the Commission should also approve the Unanimous Settlement, which equitably resolves the remaining issues in this proceeding. Taken together, both settlements benefit both Columbia Gas and its customers.

Respectfully submitted,

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Dated: August 23, 2022



## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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