BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-2022-3031211
Office of Small Business Advocate	:	C-2022-3031632
Office of Consumer Advocate	:	C-2022-3031767
Pennsylvania State University	:	C-2022-3031957
Columbia Industrial Intervenors	:	C-2022-3032178
Jose A. Serrano	:	C-2022-3031821
Constance Wile	:	C-2022-3031749
Richard C. Culbertson	:	C-2022-3032203
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc	:	

RECOMMENDED DECISION

Before
Christopher P. Pell
Deputy Chief Administrative Law Judge

and

John Coogan
Administrative Law Judge

TABLE OF CONTENTS

I. INTRODUCTION

This decision recommends that the Pennsylvania Public Utility Commission (Commission) approve the Joint Petition for Partial Settlement and Joint Petition for Non-Unanimous Settlement filed in the above-captioned proceeding in their entirety without modification because they are both in the public interest, consistent with the Public Utility Code, and supported by substantial evidence. In general, in lieu of the originally requested increase of $82.2 million per year in additional operating revenues, the Partial Settlement provides Columbia Gas of Pennsylvania, Inc. (Columbia or Company) with an increase of $44.5 million per year.

Currently, the total monthly bill for the average residential customer using 70 therms of gas per month from Columbia is approximately $123.24; the total monthly bill for a small commercial customer using 150 therms of gas per month from Columbia is approximately $205.73; and the total monthly bill for a small industrial customer using 1,316 therms of gas per month from Columbia is approximately $1,476.21. Under the increase proposed by Columbia in its filing, the total monthly bill for the average residential customer who purchases 70 therms of gas from Columbia per month would have increased from approximately $123.24 to $135.67 per month; the total bill for a small commercial customer using 150 therms of gas purchased from Columbia per month would have increased from approximately $205.73 to $223.51; and the total monthly bill for small industrial customers using 1,316 therms of gas from Columbia per month would have increased from approximately $1,476.21 to $1,586.33 per month. Under the Settlement rates, the total monthly bill for the average residential customer using 70 therms of gas per month from Columbia will be approximately $128.96; the total monthly bill for a small commercial customer using 150 therms of gas per month from Columbia will be approximately $217.33; and the total monthly bill for a small industrial customer using 1,316 therms of gas per month from Columbia will be approximately $1,566.24.

If the Non-Unanimous Settlement is approved, the Joint Petitioners' proposed revenue allocation and rate design will be adopted, rather than the litigation position of the Office of Small Business Advocate (OSBA).

This decision also recommends that the Commission deny Richard C. Culbertson's complaint against Columbia.

The end of the suspension period for Columbia's proposed tariff filing is December 17, 2022.

II. HISTORY OF THE PROCEEDING

On March 18, 2022, Columbia, filed Supplement No. 337 to Tariff Gas Pa. P.U.C. No. 9 to become effective May 17, 2022, containing proposed changes in rates, rules, and regulations calculated to produce $82.2 million in additional annual revenues. Columbia's filing is docketed at R-2022-3031211.

On March 22, 2022, Erika L. McLain, Esq., entered a Notice of Appearance on behalf of the Commission's Bureau of Investigation and Enforcement (I&E).

On March 28, 2022, Steven C. Gray, Esq. filed a Verification, Public Statement, a Notice of Appearance on behalf of the OSBA, and a formal Complaint to the proposed rate increase at Docket No. C-2022-3031632.

On April 1, 2022, Jose A. Serrano filed a formal Complaint to the proposed rate increase at Docket No. C-2022-3031821.

On April 4, 2022, Constance Wile filed a formal Complaint to the proposed rate increase at Docket No. C-2022-3031749.

On April 5, 2022, Aron Beatty, Esq., Barrett C. Sheridan, Esq., Harrison W. Breitman, Esq., and Lauren E. Guerra, Esq. filed a Public Statement, a Notice of Appearance on behalf of the Office of Consumer Advocate (OCA), and a formal Complaint to the proposed rate increase at Docket No. C-2022-3031767.

On April 8, 2022, the Pennsylvania Weatherization Providers Task Force, Inc. (Task Force) filed a Petition to Intervene at Docket No. R-2022-3031211.

On April 11, 2022, the Retail Energy Supply Association, Shipley Choice, LLC, and NRG Energy, Inc. (RESA/NGS Parties) filed a Petition to Intervene at Docket No. R-2022-3031211.

On April 12, 2022, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene at Docket No. R-2022-3031211.

By Order entered on April 14, 2022, the Commission instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase at Docket No. R-2022-3031211. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa.C.S. § 1308(d), Supplement No. 337 to Tariff Gas Pa. P.U.C. No. 9 was suspended by operation of law until December 17, 2022, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness, and reasonableness of Columbia's existing rates, rules, and regulations. The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

In accordance with the Commission's April 14, 2022 Order, the matter was assigned to Deputy Chief Administrative Law Judge Christopher P. Pell.

On April 15, 2022, the Pennsylvania State University (PSU) filed a formal Complaint to the proposed rate increase at Docket No. C-2022-3031957.

On April 26, 2022, Columbia filed Tariff Supplement No. 343 to Tariff Gas Pa PUC No. 9 (Green Path Rider Tariff Filing), which proposes to add the Green Path Rider to Columbia's Tariff. That same day, Columbia filed its Motion to Consolidate Columbia Gas of Pennsylvania Inc.'s Proposed Tariff Modifications for Inclusion of the Green Path Rider with the

Base Rate Case Filed Pursuant to 66 Pa.C.S. § 1308 at Docket No. R-2022-3031211 (Motion to Consolidate). Tariff Supplement No. 343 to Tariff Gas Pa PUC No. 9 was docketed at R-2022-3032167.

On April 27, 2022, the Columbia Industrial Intervenors (CII) filed a formal Complaint to the proposed rate increase at Docket No. C-2022-3032178.

Also on April 27, 2022, The Natural Resources Defense Council (NRDC) filed a Petition to Intervene at Docket No. R-2022-3031211.

On April 28, 2022, Richard C. Culbertson filed a formal Complaint to the proposed rate increase at Docket No. C-2022-3032203.

A Call-in Telephonic Prehearing Conference for the proceeding at docket number R-2022-3031211 was held on April 29, 2022. Counsel for Columbia, I&E, OCA, OSBA, PSU, Task Force, RESA/NGS Parties, CAUSE-PA, NRDC, CII, and Richard C. Culbertson participated.

On May 2, 2022, Administrative Law Judge John Coogan was assigned to co-preside at the proceeding docketed at R-2022-3031211.

On May 2, 2022, Richard C. Culbertson filed a Motion he captioned as follows:

> Motion to Suspend Columbia Gas of Pennsylvania Rate Case Hearings, Docket No. R-2022-3031211, Until Ordered Investigations, and Pennsylvania Constitutionally Required and Pennsylvania Statutionally Required Financial and Performance Audits Have Been Diligently Planned, Performed and Completed by a Competent, Independent and Experienced Audit Firm that Can Provide the Status – Material Weaknesses, Significant Deficiencies and a Level of Assurance of Columbia's Internal Controls in the Areas of - Effective and Efficient Operations – Safeguarding Assets, Reliable Reporting of Financials and Non-Financials and Compliance with Laws,

Regulations, Standards, Tariff and Internal Policy (Motion to Suspend).

On May 3, 2022, we issued Prehearing Order #1 for the proceeding at Docket No. R-2022-3031211, granting the Petitions to Intervene of the Task Force, the RESA/NGS Parties and CAUSE-PA; setting May 6, 2022 as the date by which Columbia must file its Answer to the Petition to Intervene of NRDC; and setting May 9, 2022 as the date by which OCA and CAUSE-PA must file any objections to Columbia's Motion to Consolidate. Additionally, a schedule for the submission of pre-served testimony was set and evidentiary hearings were scheduled for August 2, 3, and 4, 2022.

On May 6, 2022, Columbia filed an Answer to the Petition to Intervene of NRDC, stating they did not oppose the intervention of NRDC.

On May 6, 2022, Columbia filed an Answer and New Matter to the Complaint of Richard C. Culbertson.

On May 6, 2022, Columbia filed a Motion for Protective Order at Docket No. R-2022-3031211.

On May 9, 2022, OCA filed an Answer in Opposition to Columbia's Motion to Consolidate.

On May 11, 2022, we issued Prehearing Order #2 granting Columbia's Motion for Protective Order at Docket No. R-2022-3031211.

By Order dated May 13, 2022, we denied Columbia's Motion to Consolidate.

Also on May 13, 2022, Columbia filed its Answer of Columbia Gas of Pennsylvania, Inc. to Richard C. Culbertson's Motion to Suspend.

By Prehearing Order #3 dated May 16, 2022, we denied Mr. Culbertson's Motion to Suspend.

By Prehearing Order #4 dated May 17, 2022, we granted NRDC's Petition to Intervene.

On May 31, 2022, a telephonic Public Input Hearing was held at 6:00 p.m. One person was registered to provide testimony during that Public Input Hearing but that person failed to call in as scheduled.

On June 1, 2022, a second telephonic Public Input Hearing was held at 6:00 p.m. Two people registered to provide testimony during this Public Input Hearing. Both people called in and provided sworn testimony.

On June 6, 2022, the following parties served Direct Testimony: OCA (Direct Testimonies of Lafayette K. Morgan, OCA St. No. 1 (Public and Confidential Versions); David J. Garrett, OCA St. No. 2; Jerome D. Mierzwa, OCA St. No. 3; Roger D. Colton, OCA St. No. 4; and Noah D. Eastman, OCA St. No. 5); I&E (Direct Testimonies of D.C. Patel, I&E St. No. 1 (Proprietary and Non-Proprietary Versions); Chris Keller, I&E St. No. 2; Ethan H. Cline, I&E St. No. 3; and Tyler Merritt, I&E St. No. 4); OSBA (Direct Testimony of Robert D. Knecht and Mark D. Ewen, OSBA St. No. 1); CAUSE-PA (Direct Testimony of Harry S. Geller, CAUSE-PA St. No. 1); PSU (Direct Testimony of James L. Crist, PSU St. No. 1 (Public and Confidential Versions); RESA/NGS (Direct Testimonies of Anthony Cusati, III, RESA/NGS St. No. 1; and Dan Caravetta, RESA/NGS St. No. 2); and Task Force (Direct Testimony of Eugene M. Brady, PWPTF St. No. 1).

By Prehearing Order #5 dated June 8, 2022, we granted NRDC's Motion for Admission Pro Hac Vice, admitting John A. Heer, Esq., to represent NRDC in this proceeding.

On June 14, 2022, Richard C. Culbertson filed a Motion he captioned as follows:

> Motion to Initiate a Special Investigation of Columbia Gas of Pennsylvania Inc. Regarding the Content of Sworn Testimony of XXXXXXX, a Columbia Gas of Pennsylvania Inc. Employee. He Provided Sworn Public Testimony of Columbia's Practices That May Be Illegal and are Relevant (sic) to this Rate Case. XXXXXXXX Was a Credible Witness Having Access to Columbia's Operations Over Years. The Purpose of this Special Investigation is to Confirm and Quantify the Financial Impact (sic) on Columbia's Rate Base as well as to Confirm the Quality of Work and Inspection of Work of Columbia's Contractors. This Planned, Conducted, Completed and Reported Investigation Must Be Performed in Accordance with Generally Accepted Audit Standards as well as Investigative Standards. This Audit and Investigation Must be Performed Diligently by a Competent and Independent External Audit and Investigative Firm Having Full Access to Relevant Columbia's and Parent's Operations, Books and Records, and Employees.

(Motion to Initiate a Special Investigation).

On June 21, 2022, I&E and Columbia filed separate replies to Mr. Culbertson's Motion to Initiate a Special Investigation.

By Prehearing Order # 6 dated June 24, 2022, we denied Mr. Culbertson's Motion to Initiate a Special Investigation.

On July 6, 2022, the following parties served Rebuttal Testimony: Columbia Gas (Rebuttal Testimonies of Mark Kempic, Columbia St. No 1-R (Public and Confidential Versions); Judith Siegler, Columbia St. No. 3-R; Kelley Miller, Columbia St. No. 4-R; Kevin Johnson, Columbia St. No. 6-R; Raymond Brumley, Columbia St. No. 7-R; Paul Moul, Columbia St. No. 8-R; Nicole Paloney, Columbia St. No. 9-R (Public and Confidential Versions); Jen Harding, Columbia St. No. 10-R; Julie Covert, Columbia St. No. 11-R; Deborah Davis, Columbia St. No. 13-R; C.J. Anstead, Columbia St. No. 14-R; Nicholas Bly, Columbia St. No. 15-R; Theodore Love, Columbia St. No. 16-R; Kimberly Cartella, Columbia St. No. 17-R

(Public and Confidential Versions); Kylia Davis, Columbia St. No. 18-R; and Stacy Djukic, Columbia St. No. 19-R); OCA (Rebuttal Testimony of Jerome D. Mierzwa, OCA St. No. 3-R.); I&E (Rebuttal Testimonies of D.C. Patel, I&E St. No. 1-R; and Ethan H. Cline, I&E St. No. 3-R); OSBA (Rebuttal Testimony of Robert D. Knecht and Mark D. Ewen, OSBA St. No. 1-R); CAUSE-PA (Rebuttal Testimony of Harry S. Geller, CAUSE-PA St. No. 1-R); and PSU (Rebuttal Testimony of James L. Crist, PSU St. No. 1-R).

On July 7, 2022, Complainant Richard C. Culbertson served his Sets I, II, and III interrogatories on Columbia.

On July 12, 2022, Columbia served objections to Set I, Questions 1-20; Set II, Questions 10, 14-18, 26; and Set III, Questions 1-10.

On July 14, 2022, Columbia served its Set IV interrogatories on the RESA/NGS Parties.

On July 19, 2022, the RESA/NGS Parties served their formal objections to Question 1(b) of Columbia's Set IV interrogatories.

On July 20, 2022, Mr. Culbertson served Columbia with a Motion to Compel Columbia's responses to his Set I, Questions 1-20; Set II, Questions 10, 14-18, 26; and Set III, Questions 1-10 (Mr. Culbertson's Motion to Compel).

On July 22, 2022, Columbia filed a Motion to Compel the RESA/NGS Parties' response to its Set IV, Question 1(b) (Columbia's Motion to Compel).

On July 25, 2022, Columbia filed its Answer to Mr. Culbertson's Motion to Compel.

Also on July 25, 2022, the RESA/NGS Parties filed its Answer to Columbia's Motion to Compel.

On July 26, 2022, the following parties served Surrebuttal Testimony: OCA (Surrebuttal Testimonies of Lafayette K. Morgan, OCA St. 1-SR (Public and Confidential Versions); David J. Garrett, OCA St. 2-SR; Jerome D. Mierzwa, OCA St. 3-SR; Roger D. Colton, OCA St. 4-SR; and Noah D. Eastman, OCA St. 5-SR); I&E (Surrebuttal Testimonies of D.C. Patel, I&E St. No. 1-SR (Proprietary and Non-Proprietary); Christopher Keller, I&E St. No. 2-SR; Ethan H. Cline, I&E St. No. 3-SR; and Tyler Merritt, I&E St. No. 4-SR); OSBA (Surrebuttal Testimony of Robert D. Knecht and Mark D. Ewen, OSBA St. No. 1-S); CAUSE-PA (Surrebuttal Testimony of Harry S. Geller, CAUSE-PA St. No. 1-SR); PSU (Surrebuttal Testimony of James L. Crist, PSU St. No. 1-SR); RESA/NGS (Surrebuttal Testimonies of Anthony Cusati, III, RESA/NGS St. No. 1-SR; and Dan Caravetta, RESA/NGS St. No. 2-SR); and CII (Surrebuttal Testimony of Frank Plank, CII St. No. 1).

By Prehearing Order #7 dated July 27, 2022, we denied Mr. Culbertson's Motion to Compel in its entirety.

By Prehearing Order #8 dated July 27, 2022, we granted Columbia's Motion to Compel in its entirety.

On July 28, 2022, Lindsay A. Berkstresser, Counsel for Columbia, contacted us to advise that the parties had agreed to waive cross-examination, subject to the right to cross on any rejoinder. On behalf of the parties, Ms. Berkstresser requested that the hearing scheduled for Tuesday, August 2, 2022 be cancelled to allow the parties additional time for settlement negotiations. We granted the request via email on July 28, 2022, and cancelled the hearing scheduled for Tuesday, August 2, 2022.

On July 29, 2022, Mr. Culbertson filed his Motion to Reconsider Seventh Prehearing Order Addressing Complainant Richard C. Culbertson's Motion to Compel Discovery Sets I, II, and III Interrogatories on Columbia Gas of Pennsylvania (Motion to Reconsider).

On August 1, 2022, Columbia filed its Answer of Columbia Gas of Pennsylvania, Inc. to Richard C. Culbertson's Motion for Reconsideration of Prehearing Order #7.

By Prehearing Order #9 dated August 2, 2022, we denied Mr. Culbertson's Motion to Reconsider.

On August 1, 2022, Columbia served the following Rejoinder Testimonies: Kevin Johnson, Columbia St. No. 6-RJ; Paul Moul, Columbia Statement No. 8-RJ; Jennifer Harding, Columbia St. No. 10-RJ; Deborah Davis, Columbia St. No. 13-RJ; and Stacey Djukic, Columbia St. No. 19-RJ (Public and Highly Confidential versions).

On August 2, 2022, Ms. Berkstresser informed us and the parties via email that the RESA/NGS Parties intended to cross examine Columbia Witness Djukic on her Rejoinder Testimony, and CAUSE-PA intended to cross examine Columbia Witness Davis on her Rejoinder Testimony. John W. Sweet, Esq., Counsel for CAUSE-PA, subsequently informed us that CAUSE-PA no longer wished to cross examine Ms. Davis.

The evidentiary hearing was held as scheduled on August 3, 2022. During the hearing, Columbia made witness Djukic available for cross-examination. All other party witnesses were excused from appearing at the hearing since no parties requested to cross examine them, and also because we did not have any questions for them. Columbia, I&E, OCA, OSBA, RESA/NGS Parties, PSU, Task Force, CAUSE-PA, and CII each moved to have their witnesses' testimonies and exhibits entered into the record. As there were no objections, all parties' testimony and/or exhibits were admitted into the record during the hearing.

After the conclusion of the evidentiary hearing on August 3, 2022, we received an e-mail from counsel for the RESA/NGS Parties advising us that the RESA/NGS Parties' pre-served Exhibit DC-5 was omitted from the list of documents that the RESA/NGS Parties moved for admission into the record during the evidentiary hearing. Counsel for the RESA/NGS Parties stated that Exhibit DC-5 was provided to parties along with surrebuttal testimony, and counsel for the RESA/NGS Parties requested that Exhibit DC-5 be admitted into the record. By e-mail,

we instructed parties to let us know by 2 p.m. on August 3, 2022 if there were any objections to the RESA/NGS Parties' request that the late-identified Exhibit DC-5 be admitted into the record. We received no objections.

On August 4, 2022, we issued our Order Admitting Late Identified Evidence of the RESA/NGS Parties.

III. FINDINGS OF FACT

1. Columbia Gas of Pennsylvania (Columbia) is a natural gas distribution company delivering natural gas service to approximately 440,000 residential, commercial, and industrial customers pursuant to certificates of public convenience and necessity issued by the Commission. Columbia St. 1 at 3.

2. On March 18, 2022, Columbia filed Supplement No. 337 to Tariff Gas Pa. P.U.C. No. 9 with the Commission.

3. Supplement No. 337 to Tariff Gas Pa. P.U.C. No. 9 reflects an increase in annual distribution revenue of approximately $82.2 million in additional revenues.

4. I&E is responsible for protecting the public interest in proceedings before the Commission; this responsibility requires the balancing of the interests of ratepayers, the regulated utility, and the regulated community as a whole. I&E St. 1 at 1; I&E St. 2 at 1; I&E St. 3 at 1; I&E St. 4 at 2.

5. OCA is authorized to represent the interests of consumers before the Commission. Act 161 of 1976, 71 P.S. § 309-2.

6. OSBA is authorized and directed to represent the interests of small business consumers of utility service in Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50.

7. 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 the PSU Fruit Research and Extension Center in Biglerville, Pennsylvania. PSU Statement in Support of Partial Settlement at 2-3.

8. CII members receive natural gas service from Columbia under both sales and transportation rate schedules, including Rate LDS-Large Distribution Service, and use substantial volumes of natural gas in their manufacturing and operational processes. CII Statement in Support of Partial Settlement at 2.

9. The Task Force is a Pennsylvania non-profit corporation and a statewide association of thirty-seven organizations providing utility assistance and energy conservation services in each of the Commonwealth's sixty-seven counties. The Task Force, through its member agencies, Pennsylvania community-based organizations, administers universal service programs for several utility companies in Pennsylvania. Task Force Statement in Support of Partial Settlement at 1.

10. CAUSE-PA intervened in this proceeding to ensure that the proposed rate increase and rate design will not adversely affect Columbia Gas of Pennsylvania's low income customers' ability to connect to, maintain, and afford natural gas service. CAUSE-PA St. 1 at 4.

11. The Partial Settlement provides for rates to be designed to produce an increase in operating revenues of $44.5 million over current base rates based upon the pro forma level of operations for the twelve months ended December 31, 2023. Partial Settlement ¶ 24.

12. The revenue increase agreed to in the Partial Settlement is approximately 54% of Columbia's original request of $82.2 million. Columbia Exhibit 102, Sch. 3, p. 3.

13. The Settlement set forth in the Joint Petition for Partial Settlement resolves all issues in this proceeding except for Revenue Allocation and Rate Design as well as issues raised by Complainant Richard C. Culbertson.

14. Columbia, I&E, OCA, OSBA, PSU, CII, RESA/NGS Parties, Task Force, and CAUSE-PA agree that the terms set forth in the Joint Petition for Partial Settlement are in the public interest as a reasonable resolution of their respective interests and should be approved.

15. The revenue allocation set forth in the Joint Petition for Non-Unanimous Settlement is within the range of possible outcomes had revenue allocation been fully litigated. Columbia Exhibit 103, Sch. 8; I&E Exhibit 3, Sch. 6; OCA St. 3-SR, Table 1-SR; OSBA St. 1-SR, Table IEc-S3; PSU Exhibit SR-1.

16. Columbia and I&E presented testimony as relates to the appropriateness of Columbia's accelerated pipeline replacement program. Columbia St. No. 1 at 14; Columbia St. No. 14 at 32; I&E St. 4 at 21.

17. Columbia and I&E presented evidence as relates to the adequacy of Columbia's curb valves and ability to shut off gas in case of an emergency. Columbia St. No. 1-R at 18-19; I&E St. 4-SR at 10-11.

18. Mr. Culbertson did not submit any written testimony or exhibits for the record in this proceeding.

IV. PUBLIC INPUT HEARINGS

Four telephonic public input hearings were scheduled in this matter. Two public input hearings were scheduled for May 31, 2022, at 1:00 p.m. and 6:00 p.m. Additionally, two public input hearings were scheduled for June 1, 2022, at 1:00 p.m. and 6:00 p.m. The 1:00 p.m. telephonic public input hearings scheduled for May 31, 2022, and June 1, 2022 were both cancelled because no members of the public registered to testify during these hearings. One person registered to testify during the May 31, 2022, 6:00 p.m. public input hearing. However, that person failed to call in for the hearing. Two people registered to testify during the June 1, 2022, 6:00 p.m. public input hearing. These two registrants called in and testified as scheduled.

David Surdyn testified that he is a Columbia customer and that he is opposed to the proposed rate increase. Mr. Surdyn testified that the most recent rate increase caused his gas bills to increase by $408 this year, even though it was a warm winter. Mr. Surdyn estimated that, had it been a cold winter, his bills would have increased by between five and seven hundred dollars. Additionally, Mr. Surdyn expressed concerns regarding the frequency of Columbia's rate increase requests, suggesting that the frequency of Columbia's requests might be indicative of financial distress. Mr. Surdyn expressed additional concerns that Columbia's distribution rate is approximately three times what he pays for distribution from Duquesne Light, and Duquesne Light has far more facilities to maintain than Columbia. Lastly, Mr. Surdyn expressed concerns that his previous attempts to raise concerns with Columbia never led to a satisfactory resolution of his concerns.[1]

George Milligan testified that he is a Columbia employee and customer. Mr. Milligan testified that over the past several years he has witnessed multiple construction projects in Columbia's service territory. Mr. Milligan further testified that, after witnessing what he characterized as many near-misses involving Columbia contractors, he reported each safety infraction to his supervisors and Columbia senior management, and his concerns were ignored. Mr. Mulligan indicated that Columbia's failure to address his concerns led him to report those concerns to the Commission.[2]

Of particular concern to Mr. Milligan is that Columbia's contractors are performing live gas tasks without the training and experience that a Columbia employee receives and possesses. Mr. Milligan explained that a Columbia gas service technician receives twelve to eighteen months of training before being allowed to reestablish a customer's gas service after it has been shut off, while contractors are only provided a short "relight class" taught by a service specialist who wasn't trained as a Columbia service technician. Mr. Milligan asserted that

---

[1] Tr. 72-81.

[2] Tr. 85.

Columbia's customers deserve only the most trained and qualified technicians to perform this work.[3]

Mr. Milligan questioned why in the tenth year of Columbia's infrastructure replacement program, after receiving millions of dollars from ratepayers, there are still bare steel pipes in use that were installed between 1895 and 1900. Mr. Milligan further questioned why Columbia does not install curb box safety shutoff valves on low-pressure systems. Mr. Milligan maintained that if there were curb boxes installed as there had been in the past, Columbia employees could shut the service off at the curb in the event of an emergency. Lastly, Mr. Milligan questioned why a contractor's work is not subject to inspection by a Columbia trained employee. Mr. Milligan testified that it is his hope that the Commission will direct Columbia to make changes to enhance the safety of Columbia's customers, employees, and contractors before approving any further rate increases.[4]

V. LEGAL STANDARD/BURDEN OF PROOF

A. Joint Petitions for Settlement

Section 1301 of the Public Utility Code, 66 Pa.C.S. § 1301, provides that "every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission."

The burden of proof to establish the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility. 66 Pa.C.S. § 315(a). "It is well-established that the evidence adduced by a utility to meet this burden must be substantial." *Lower Frederick Twp. v. Pa. Pub. Util. Comm'n*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).

---

[3] Tr. 85-87.

[4] Tr. 87-88.

Although the burden of proof remains with the public utility throughout the rate proceeding, when a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate-the reasonableness of the adjustment. *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00072711 (Opinion and Order entered July 17, 2008). "Section 315(a) of the Code, 66 Pa. C.S. § 315(a), applies since this is a proceeding on Commission Motion. However, after the utility establishes a prima facie case, the burden of going forward or the burden of persuasion shifts to the other parties to rebut the prima facie case." *Pa. Pub. Util. Comm'n v. Phila. Gas Works*, Docket No. R-00061931 (Opinion and Order entered Sept. 28, 2007), at 12.

Furthermore, Section 523 of the Public Utility Code, 66 Pa.C.S. § 523, requires the Commission to "consider . . . the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates." In exchange for customers paying rates for service, which include the cost of utility plant in service and a rate of return, a public utility is obligated to provide safe, adequate, and reasonable service. "[I]n exchange for the utility's provision of safe, adequate and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service which includes reasonable operation and maintenance expenses, depreciation, taxes and a fair rate of return for the utility's investors . . . In return for providing safe and adequate service, the utility is entitled to recover, through rates, these enumerated costs." *Pa. Pub. Util. Comm'n v. Pa. Gas & Water Co.*, 61 Pa. PUC 409, 415-16 (1986). *See also* 66 Pa.C.S. § 1501. As a result, the legislature has given the Commission discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds "that the service rendered by the public utility is inadequate." 66 Pa.C.S. § 526(a).

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case, and at the same time, conserve precious administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. *See* 52 Pa. Code § 69.401. The Commission has explained that parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. *Pa. Pub. Util. Comm'n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861, 2013 Pa.

PUC LEXIS 789 (Opinion and Order entered Dec. 5, 2013). In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. Windstream Pa., LLC*, Docket No. M-2012-2227108, 2012 Pa. PUC LEXIS 1535 (Opinion and Order entered Sept. 27, 2012); *Pa. Pub. Util. Comm'n v. C.S. Water & Sewer Assoc.*, Docket No. R-00881147, 74 Pa. PUC 767 (Opinion and Order entered July 22, 1991).

The Commission's policy permits parties to enter "partial" or "non-unanimous" settlements. *See* 52 Pa. Code § 69.401. *See also* 52 Pa. Code § 5.232, § 69.406. As with full settlements, partial settlements, whether involving a partial settlement of issues or a partial settlement of the parties involved (non-unanimous), must be reasonable and in the public interest. *See Pa. Pub. Util. Comm'n v. City of Bethlehem – Water Dep't*, Docket No. R-2020-3020256, 2021 Pa. PUC LEXIS 116 (Apr. 15, 2021) (*City of Bethlehem Water*). The Commission has approved non-unanimous settlements as being just and reasonable and in the public interest and has not rejected or disfavored settlements because they are non-unanimous. *See, e.g. City of Bethlehem Water*; *Pa. Pub. Util. Comm'n v. Pike Cnty. Light &Power Co. – Elec.*, Docket No. R-2020-3022135 (Order entered June 23, 2021) (*Pike County*); *Pa. Pub. Util. Comm'n v. Pa.-Am. Water Co.*, Docket No. R-2020-3019369 (Opinion and Order entered Feb. 25, 2021) (*Pennsylvania-American Water Co.*).

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) (*Peoples TWP*) (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 v. Cmty. Utils. of Pa., Inc. – Wastewater Div.*, Docket No. 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).

The standards for approving the terms of non-unanimous settlements are the same as those for deciding a fully contested case, *i.e.,* the parties to the non-unanimous settlement must demonstrate that the proposed settlement is supported by substantial evidence and that the rates agreed to are just and reasonable, in the public interest, and in conformity with the Commission's orders and regulations. *See* 66 Pa C.S. § 1301; *Pike County; City of Bethlehem Water; Pennsylvania-American Water Co*.

B. Formal Complaints

Under the Public Utility Code, rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301 and 1304. Columbia bears the burden of proof to establish the justness and reasonableness of every element of its rate increase request. 66 Pa.C.S. § 315(a); *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00038805, 236 P.U.R.4th 218, 2004 Pa. PUC LEXIS 39 (Aug. 5, 2004). However, a public utility, in proving that its proposed rates are just and reasonable, does not have the burden to affirmatively defend claims made in its filing that no other party has questioned. As the Commonwealth Court has explained:

> While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.

Allegheny Ctr. Assocs. v. Pa. Pub. Util. Comm'n, 570 A.2d 149, 153 (Pa. Cmwlth. 1990).

Although the ultimate burden of proof does not shift from the utility seeking a rate increase, a party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *See, e.g., Pa. Pub. Util. Comm'n v. PECO*, Docket No. R-00891364, 1990 Pa. PUC LEXIS 155 (Opinion and Order entered May 16, 1990); *Pa. Pub. Util. Comm'n v. Breezewood Tel. Co.*, Docket No. R-00901666, 1991 Pa. PUC LEXIS 45 (Opinion and Order entered Jan. 31, 1991). Purely speculative assumptions are insufficient. *Pa. Pub. Util. Comm'n v. Pa. Power & Light Co.*, 1995 WL 803507 (Opinion and Order entered Sept. 27, 1995).

Further, a party that raises an issue that is not included in a public utility's general rate case filing bears the burden of proof. *Pa. Pub. Util. Comm'n v. Metro. Edison Co.*, Docket No. R-00061366, 2007 Pa. PUC LEXIS 5 (Order entered Jan. 11, 2007). The proponent of a rule or order bears the burden of proof pursuant to Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), which provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. It is axiomatic that "[a] litigant's burden of proof before

administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible." *Samuel J. Lansberry, Inc. v. Pa. ,Pub. Util. Comm'n,* 578 A.2d 600, 602 (Pa. Cmwlth. 1990). The preponderance of the evidence standard requires proof by a greater weight of the evidence. *Cmwlth. v. Williams,* 732 A.2d 1167 (Pa. 1999).

Additionally, any finding of fact necessary to support an adjudication of the Commission must be based on substantial evidence. *Met-Ed Indus. Users Group v. Pa. Pub. Util. Comm'n*, 960 A.2d 189 (Pa. Cmwlth. 2008) (*citing* 2 Pa.C.S. § 704). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm'n,* 942 A.2d 274 (Pa. Cmwlth. 2008). Although substantial evidence must be "more than a scintilla and must do more than create a suspicion of the existence of the fact to be established," *Kyu Son Yi v. State Bd. of Vet. Med*., 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted), the "presence of conflicting evidence in the record does not mean that substantial evidence is lacking." *Allied Mech. & Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

If the complainant has established a *prima facie* case, the burden of persuasion shifts to the utility to rebut with evidence that is at a minimum co-equal. *Waldron v. Philadelphia Electric Co.*, 1980 WL 140964 (Pa.P.U.C. March 19, 1980). If the utility presents a sufficient rebuttal, the burden of persuasion then shifts back to the complainant to rebut the utility's evidence by a preponderance of the evidence. *Hurley v. Hurley*, 754 A.2d 1283 (Pa. Super. 2000) However, the burden of proof remains on the party seeking affirmative relief with the Commission. *Milkie v. Pa. Pub. Util. Comm'n*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

VI. DESCRIPTION OF THE PARTIAL SETTLEMENT

Columbia filed a Joint Petition for Partial Settlement on September 2, 2022. The Petition is 18 pages in length and includes the terms of the Partial Settlement and 9 appendices attached as Appendix A through Appendix J. Appendix A is Columbia's Supplement to Tariff-

Gas-Pa. P.U.C. No. 9, which includes rate increases and changes to the existing tariff. Appendices B through and including Appendix J are the Joint Petitioners' Statements in Support of the Settlement.

VII. TERMS AND CONDITIONS OF THE PARTIAL SETTLEMENT

The Joint Petitioners have agreed to a Partial Settlement covering many of the issues raised in this proceeding. The Partial Settlement also identifies that Revenue Allocation and Rate Design are the subject of a separate Joint Petition for Non Unanimous Settlement filed simultaneously with the Partial Settlement. The Non Unanimous Settlement will be addressed later in this Recommended Decision.

The terms and conditions of the Partial Settlement are set forth fully below *verbatim*, beginning at numbered paragraph 24 through and including paragraph 51 of the Joint Petition for Partial Settlement filed on September 2, 2022. The Partial Settlement also includes the usual "terms and conditions" that are typically included in settlements. These terms, which, among other things, protect the parties' rights to withdraw from the Partial Settlement and proceed with litigation if any part of the Settlement is modified, condition the agreement upon approval by the Commission and provide that no party is bound in future rate cases by any particular position taken in this case. These additional terms and conditions will not be repeated here verbatim. For those standard terms, the reader is directed to the Joint Petition itself.

The Joint Petitioners to the Partial Settlement include Columbia, I&E, OCA, OSBA, PSU, CII, RESA/NGS Parties, Task Force, and CAUSE-PA. Although the NRDC did not sign the Partial Settlement, the Joint Petitioners indicated in the Partial Settlement that NRDC indicated that it does not oppose the Partial Settlement. Complainant Richard C. Culbertson objected to the terms of the Partial Settlement. Mr. Culbertson's objections are addressed below.

The settlement terms among the Joint Petitioners consist of the following terms and conditions: [5]

A. Revenue Requirement

24. Rates will be designed to produce an increase in operating revenues of $44.5 million over current base rates based upon the pro forma level of operations for the twelve months ended December 31, 2023.

25. The state income tax rate in this proceeding will be set at 8.99% and has been reflected in the settlement revenue requirement. The Company will reflect subsequent state tax adjustments to the state income tax rate for the post-2023 tax years through the Company's State Tax Adjustment Surcharge, currently Tariff Gas – Pa.P.U.C. No. 9, page 165, or future base rate proceedings.

26. As of the effective date of rates in this proceeding, Columbia will be eligible to include plant additions in the DSIC upon attaining total [Fully Projected Future Test Year] FPFTY plant in service of $4,061,081,498 as projected by Columbia at December 31, 2023 per Exhibit No. 108, Schedule 1. The foregoing provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing.

27. For purposes of calculating its DSIC, Columbia shall use the equity return rate for gas utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for gas utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa. C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa. C.S. § 1358(b)(1).

28. Columbia will be permitted to continue to use normalization accounting with respect to the benefits of the tax repairs deduction.

[5] The terms and conditions of the Partial Settlement below have been adopted using substantially the same numbering, and format as found in the Joint Petition for Partial Settlement, with slight non-substantive modifications.

29. Columbia also will be permitted to continue to use normalization accounting with respect to the tax treatment of Section 263A mixed service costs.

30. Columbia will be permitted to recover the amortization of costs related to the following:
    a. Blackhawk Storage – Continuation of the previously-approved 24.5-year amortization of the total amount of $398,865 to be included on books and in rate base as a regulatory asset to reflect the total original cost that began on October 28, 2008.
    b. Corporate Services OPEB-Related Costs – Continuation of the previously-approved amortization of the regulatory asset of $903,131 associated with the transition of NiSource Corporate Services Company from a cash to accrual basis for Other Post-Employment Benefits ("OPEBs"), over a ten-year period that began July 1, 2013. As amortization is scheduled to end during the fully projected future test year, the Company will spread the remaining balance over the full 12-month period.
    c. Pension Prepayment – Continuation of the previously-approved ten-year amortization of $8,449,772.00 that began December 16, 2018.
    d. COVID-19 Related Uncollectible Accounts Expense – Total deferral of COVID-19 related Uncollectibles Account Expense has been revised to the amount of $3,948,212 comprised of $5,164,212 representing deferrals through December 31, 2021, less a billing charge-off correction of $1,216,000. Amortization started January 1, 2022, and $1,115,849 will have been expensed through December 31, 2022, leaving a balance of $2,832,363, which shall be amortized over a four-year period beginning January 1, 2023, or $708,091 annually. The Company agrees to cease the recording of any increases to the deferral and to provide an accounting of the yearly amortizations in its next base rate proceeding.

31. As established in the settlement of Columbia's base rate proceeding at R-2012-2321748, Columbia will be permitted to continue to defer the difference between the annual OPEB expense calculated pursuant to FASB Accounting Standards Codification ("ASC") 715, "Compensation – Retirement Benefits (SFAS No. 106) and the annual OPEB expense allowance in rates of $0. Only those amounts attributable to operation and maintenance would be deferred and recognized

as a regulatory asset or liability. To the extent the cumulative balance recorded reflects a regulatory asset, such amount will be collected from customers in the next base rate proceeding over a period to be determined in that rate proceeding. To the extent the cumulative balance recorded reflects a regulatory liability, there will be no amortization of the (non-cash) negative expense and the cumulative balance will continue to be maintained.

32. Commencing with the effective date of rates, Columbia will deposit amounts in the OPEB trusts when the cumulative gross annual accruals calculated by its actuary pursuant to ASC 715 are greater than $0. If annual amounts deposited into OPEB trusts, pursuant to this Partial Settlement, exceed allowable income tax deduction limits, any income taxes paid will be recorded as negative deferred income taxes, to be added to rate base in future proceedings.

33. On or before April 1, 2023, Columbia will provide the Commission's Bureau of Technical Utility Services ("TUS"), I&E, OCA and OSBA an update to Columbia Exhibit No. 108, Schedule 1, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ending December 31, 2022. On or before April 1, 2024, Columbia will update Exhibit No. 108, Schedule 1 filed in this proceeding for the twelve months ending December 31, 2023. In Columbia's next base rate proceeding, the Company will prepare a comparison of its actual revenue, expenses and rate base additions for the twelve months ended December 31, 2023. However, it is recognized by the Joint Petitioners that this is a black box settlement that is a compromise of Joint Petitioners' positions on various issues.

34. Columbia will preserve and provide to I&E, OCA and OSBA as a part of its next base rate case the following: (1) all documentation supporting debt issued between this base rate case and the next base rate case; and (2) for each issuance the prevailing yield on U.S. utility bonds as reported by Bloomberg Finance L.P. for companies with a credit risk profile equivalent to that of NiSource Finance Corp.

35. Tariff rates will go into effect on December 17, 2022.

36. The Residential customer charge will not increase.

37. For informational purposes, the Company shall continue to maintain and provide to the OCA, I&E and OSBA by October 1 of each year all reports and records supporting the operation of its WNA for the preceding year, including the Company's monthly computation of the WNA and all data underlying the Company's monthly WNA computation.

38. Columbia will maintain its current method of collecting the full monthly customer charge from all customers in the months when service begins and service ends. Parties reserve the right to address this in future base rate cases.

39. Columbia's Revenue Normalization Adjustment ("RNA") proposal is withdrawn without prejudice.

B. Energy Efficiency and Conservation (EE&C)

40. Columbia's proposed Residential Energy Efficiency ("EE") program is approved as a three-year pilot, with actual, incurred costs not to exceed $4,000,000 recovered through Rider EE. Columbia agrees to a collaborative with the parties to discuss the scope of the program. Columbia will leverage the Residential EE program to increase awareness of and participation in the Company's LIURP and Audits & Rebates programs. Specifically, the EE program staff will work with the Universal Service team to ensure that low-income customers are steered to the program that maximizes their benefit level.

41. Columbia will increase the annual budget for its Audits & Rebates program, from $750,000 to $1,000,000 and will increase the maximum benefit level per customer household from $1,800 to $3,600 for energy efficiency measures.

42. Columbia agrees to increase the annual budget for its Emergency Repair Program from $700,000 to $1,000,000 to be funded by Rider USP.

C. Low Income Usage Reduction Program (LIURP)

43. Columbia's proposal to spread any LIURP budget carryover from calendar year 2022 evenly over the next three calendar years, 2023 through 2025, is approved.

44. Columbia will increase its annual LIURP budget from $5,075,000 to $5,425,000 beginning in January 2024 or

sooner if 2022 carryover results in a year's annual budget being less than $5,425,000. The LIURP budget will remain at $5,075,000 until the increase takes effect. Columbia will expend the 2022 LIURP budget carryover before adjusting the Rider USP for the increase.

D. Hardship Fund

45. Columbia agrees to make a one-time donation of $75,000 to the Company's Hardship Fund.

E. Customer Assistance Program (CAP)

46. Columbia will conduct quarterly evaluations of CAP customer bills and will make adjustments to the customer's CAP payment plan to ensure that they are getting the lowest rate. By December 31, 2023, Columbia will automate a process to conduct quarterly evaluations of CAP customer bills and will make adjustments to the customer's CAP payment plan to ensure that they are getting the lowest rate. Upon implementation of the automated process, Columbia will include all CAP customers in its quarterly CAP rate review. No other exclusions will be used unless explicitly approved by the Commission in a subsequent proceeding. IT costs related to the automation process will be recovered through Rider USP. By July 30, 2023, Columbia will file a progress report to the docket for this rate case (No. R-2022-3031211) explaining its progress toward implementing the automated process.

F. Weatherization Partners

47. The Company agrees to continue to partner with CBOs including member agencies of CAAP and Pennsylvania Weatherization providers in the development, implementation and administration of its LIURP program.

G. LTIIP

48. Columbia's currently-effective Long Term Infrastructure Improvement Plan ("LTIIP") will expire on December 31, 2022. Prior to the expiration of its currently-effective LTIIP, Columbia will seek approval of a new LTIIP, with a proposed effective date of January 1, 2023. Prior to filing for such approval, Columbia will meet with the Commission's Gas Safety Division to preview the filing and seek the Gas Safety Division's input and to discuss the issues raised in I&E

witness Merritt's testimony in this base rate proceeding. All parties reserve the right to intervene and participate in that proceeding and any other proceeding. As part of that LTIIP filing, Columbia will provide an estimation of the rate impact of LTIIP-eligible investments over the approved LTIIP period.

H. Natural Gas Supplier Issues

49. Effective upon approval of the Partial Settlement, the Company agrees to increase the number of rate ready billing codes from 50 to 125 per NGS, subject to the right of Columbia to seek recovery of potential implementation costs, including potential automation costs, in a future rate case. The Company will continue to manage new rate code requests under the Company's existing process which requires 45 days advance notice for requests of additional rate codes. The Company will process requests for as many as 10 rate codes per request. The Company will perform a review of active rate codes to assess whether there are existing rate codes that can be used before new rate codes and will work with NGSs to ensure they have sufficient rate codes to serve their current and future customers.

50. In its next base rate case, in anticipation of RESA/NGS Parties submitting a proposal for the implementation of Bill Ready Billing, Columbia's initial filing will include testimony regarding the costs to implement Bill Ready Billing and a timeline associated with such implementation. All parties reserve their rights to support or oppose Bill Ready Billing in that case.

51. The RESA/NGS Parties Proposal that the Company provide for confirmations on all five cycles is withdrawn.

Joint Petition at 6-12.

VIII. DISCUSSION OF THE PARTIAL SETTLEMENT

A. Revenue Requirement

1. Reasonableness of Revenue Increase

The Partial Settlement provides for rates to be designed to produce an increase in operating revenues of $44.5 million over current base rates based upon the pro forma level of operations for the twelve months ended December 31, 2023.[6] The $44.5 million increase in tariff rates will go into effect on December 17, 2022, which is the effective date of rates under the Commission's April 14, 2022 suspension order.[7] The Settlement increase is approximately 54% of Columbia's original request of $82.2 million.[8] The $44.5 million increase, although less than that requested by the Company, will enable the Company to continue to provide safe and reliable service to its customers. Columbia Statement in Support of Partial Settlement at 4.

Columbia advances that one primary reason in support of the revenue increase is to provide the Company with an opportunity to earn a return on the significant capital investments made to its distribution system.[9] Columbia notes that it has made, and continues to make, substantial capital investments in its system.[10] Since Columbia started its accelerated pipeline replacement program in 2007, Columbia has replaced over 1,234 miles of cast iron and bare steel pipe.[11] Columbia plans to increase its capital expenditures in the 2022 to 2026 timeframe, with a planned spending program ranging between $359 and $468 million budgeted annually over the 5-year period.[12] Columbia Statement in Support of Partial Settlement at 4.

---

6 Partial Settlement ¶ 24.

7 Partial Settlement ¶¶ 3, 35.

8 Columbia Exhibit 102, Sch. 3, p. 3.

9 Columbia St. No. 1, pp. 6.

10 Columbia St. No. 1, pp. 5-8.

11 Columbia St. No. 1, p. 7.

12 Columbia St. No. 1, p. 13; Columbia Gas St. No. 7, p. 3; SDR GAS-ROR-014 Att. A.

Columbia also notes that it is incurring operating and maintenance ("O&M") costs associated with maintaining pipeline safety on its system. As an example, Columbia explained that it is expanding its focus in several critical areas, including cross bore identification, Abnormal Operating Condition remediation, enhanced leak detection and repairs using the Picarro leak detection system, improved worker safety through the use of Blackline gas detection safety monitors, and increased occupational safety and health staffing.[13] Columbia maintains that these costs support the level of the revenue increase reached by the Partial Settlement. Columbia Statement in Support of Partial Settlement at 4-5.

Under the Partial Settlement, with only a few select exceptions further explained herein, the settlement revenue requirement is a "black box" amount. Columbia believes that "black box" settlements facilitate agreements, as parties are not required to identify a specific return on equity or identify specific revenues and/or expenses that are allowed or disallowed. Columbia Statement in Support of Partial Settlement at 5.

Given the entire Partial Settlement, Columbia believes that the revenue requirement is reasonable and will provide the Company with the additional revenues that are necessary to provide reliable service to customers. In addition, Columbia believes that the Partial Settlement appropriately balances the need of the Company to have an opportunity to earn a reasonable rate of return with its customers' need for reasonable rates. Columbia Statement in Support of Partial Settlement at 6.

I&E notes that it agreed to settlement in the amount of $44.5 million only after I&E conducted an extensive investigation of Columbia's filing and related information obtained through the discovery process to determine the amount of revenue Columbia needs to provide safe, effective, and reliable service to its customers. The additional revenue in this proceeding is base rate revenue and has been agreed to in the context of a "Black Box" settlement with limited exceptions. A prior Commission Chairman explained that black box settlements are beneficial in this context because of the difficulties in reaching an agreement on each component of a company's revenue requirement calculation, noting that the

[13] Columbia St. No. 14, pp. 27-32.

"[d]etermination of a company's revenue requirement is a calculation that involves many complex and interrelated adjustments affecting revenue, expenses, rate base and the company's cost of capital. To reach an agreement on each component of a rate increase is an undertaking that in many cases would be difficult, time-consuming, expensive and perhaps impossible. Black box settlements are an integral component of the process of delivering timely and cost-effective regulation."[14] I&E Statement in Support of Partial Settlement at 6-7.

I&E maintains that this increased level of "Black Box" revenue adequately balances the interests of ratepayers and Columbia. Columbia will receive sufficient operating funds in order to provide safe and adequate service while ratepayers are protected as the resulting increase minimizes the impact of the initial request. Mitigation of the level of the rate increase benefits ratepayers and results in "just and reasonable rates" in accordance with the Public Utility Code, regulatory standards, and governing case law.[15] I&E Statement in Support of Partial Settlement at 7.

The OCA believes that, based on its analysis of the Company's filing, discovery responses received, and testimony by all parties, the revenue increase under the Partial Settlement represents a result that would be within the range of likely outcomes in the event of full litigation of this case. While the OCA also believes that its position in litigation would have resulted in a revenue decrease, this diverged significantly from the positions of many of the other parties in the case and thus the range of litigation outcomes varied significantly. When coupled with the other gains achieved in the settlement, the OCA maintains that the increase is reasonable and yields a result that is in the public interest. As such, the OCA submits that the increase agreed to in this Partial Settlement is in the public interest, is in the interest of the Company's ratepayers, and should be approved by the Commission. OCA Statement in Support of Partial Settlement at 6-7.

---

[14] *See,* Statement of Commissioner Robert F. Powelson, *Pa. Pub. Util. Comm'n v. Wellsboro Elec. Co.,* Docket No. R-2010-2172662. *See also,* Statement of Commissioner Robert F. Powelson, *Pa. Pub. Util. Comm'n v. Citizens' Elec. Co. of Lewisburg* Docket No. R-2010- 2172665.

[15] 66 Pa.C.S. § 1301.

OSBA believes that the settled increase is modestly lower than the average percentage award from the 10 previous Columbia base rates cases of the past 14 years. OSBA Statement in Support of Partial Settlement at 2.

For its part, PSU submits that the reduction to the overall revenue requirement is in the public interest and a reasonable outcome based upon the issues presented in this proceeding. PSU notes that the reduction also serves to lower the overall increase allocated to the SDS/LGSS and LDS/LGSS rate classes, among others. As such, PSU asserts that the Commission should approve the agreed-upon revenue increase. PSU Statement in Support of Partial Settlement at 5.

2. State Income Tax Rate

The Settlement Petition makes clear that the state income tax in this proceeding will be set at 8.99%. The Company will reflect subsequent state tax adjustments to the state income tax rate for post-2023 tax years through the Company's State Tax Adjustment Surcharge ("STAS") or future base rate proceedings. This term memorializes the changes made by Act 53 to lower the corporate net income tax rate to 8.99% in 2023.[16] Columbia maintains that this provision is in the public interest as it reduces the amount of the settled rate increase and avoids the need to implement a STAS adjustment for this tax rate change effective January 1, 2023. Columbia Statement in Support of Partial Settlement at 6-7.

For its part, the OCA indicated that the clarity produced by this term will allow for future adjustments to the Corporate Net Income Tax to flow through to customers automatically each year. OCA Statement in Support of Partial Settlement at 6.

[16] *See* 72 P.S. § 7402.

3. Distribution System Improvement Charge (DSIC)

The Commission approved Columbia's DSIC by Order entered May 22, 2014, at Docket No. P-2012-2338282. With the DSIC, plant additions not included in base rates may be reflected in the DSIC calculation. Therefore, for future DSIC purposes, it is necessary to establish relevant plant balances for the Company out of this proceeding. The Partial Settlement provides that following the effective date of rates in this proceeding, Columbia will be eligible to include plant additions in the DSIC upon attaining total FPFTY plant in service of $4,061,081,498 as projected by Columbia at December 31, 2023 per Exhibit No. 108, Schedule 1.[17] The Joint Petitioners agree that this provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing.[18] Columbia Statement in Support of Partial Settlement at 6-7.

The Partial Settlement also provides that, for purposes of calculating its DSIC, Columbia shall use the equity return rate for gas utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for gas utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa.C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa.C.S. § 1358(b)(1).[19] Columbia Statement in Support of Partial Settlement at 7.

Columbia maintains that these provisions are consistent with terms in prior settlements and are necessary provisions in the context of a settlement, in order to ensure that the

[17] Partial Settlement ¶ 26.

[18] *Id*.

[19] Partial Settlement ¶ 27. In the Order entered December 10, 2014, approving the settlement in Columbia's 2014 base rate proceeding at Docket No. R-2014-2406274, the Commission stated that base rate settlements must stipulate a Return on Equity ("ROE") for DSIC purposes. (Order at 15.) The Commission noted that one option is to stipulate that the ROE for DSIC purposes will track the equity return rate from the most recent Commission staff Quarterly Report.

DSIC is properly implemented in the future. Therefore, these provisions are in the public interest and should be approved. Columbia Statement in Support of Partial Settlement at 7.

I&E avers that the provisions related to the DSIC are in the public interest and benefits both Columbia and its ratepayers. Columbia benefits because it will have access to DSIC funding for necessary infrastructure improvements which helps to ensure Columbia is able to meet its obligation to provide its customers with safe and reliable service. Customers will benefit from the assurance that improved infrastructure will facilitate safe and reliable service. I&E Statement in Support of Partial Settlement at 8.

4. Tax Repair Allowance and Mixed Service Cost Normalization Treatment

Columbia notes that in 2008, it sought and obtained permission from the Internal Revenue Service to change its definition of "unit of property" for tax purposes. Beginning October 18, 2011 (the effective date of rates as established in Columbia's 2010 rate case), the federal repairs deduction is being normalized under deferred tax accounting.[20] Under the Partial Settlement, Columbia will continue to use normalization accounting with respect to the benefits of the tax repairs deduction.[21] The Partial Settlement acknowledges the Parties' agreement that the existing treatment of the repairs deduction is in the public interest and should continue. Columbia Statement in Support of Partial Settlement at 7-8.

Columbia further notes that the Joint Petitioners have agreed that Columbia will continue to use normalization accounting with respect to the tax treatment of Internal Revenue Code Section 263A mixed service costs ("MSC").[22] Columbia explains that this is similar to the

---

[20] Columbia St. No. 10, p. 7.

[21] Partial Settlement ¶ 28.

[22] Partial Settlement ¶ 29.

[22] Partial Settlement ¶ 26.

[22] *Id*.

treatment of book versus tax timing differences for the repairs deduction.[23] This treatment was established in the settlement of Columbia's 2012 rate case at Docket No. R-2012-2321748, and was unopposed in this proceeding.[24] Columbia notes that no party objected to the continuation of the previously approved normalization accounting treatment for MSC. As such, Columbia believes that the Parties' agreement that such treatment will continue is in the public interest and should be approved. Columbia Statement in Support of Partial Settlement at 8.

For its part, I&E notes that these items originated from previous settlements and are simply memorialized in the instant Settlement. I&E Statement in Support of Partial Settlement at 8. Moreover, OCA indicates that after a review of the Company's proposal, and subsequent discovery, it did not oppose the Company's position on this issue. OCA Statement in Support of Partial Settlement at 7.

5. Amortizations – Blackhawk Storage

The Partial Settlement specifies the continued amortization of costs related to Blackhawk Storage. This amortization was established in Columbia's 2008 rate case settlement at Docket No. R-2008-2011621 and will continue.[25] No party objected to the Company's inclusion of this amortization amount in its rate filing. Columbia Statement in Support of Partial Settlement at 8.

---

[22] Partial Settlement ¶ 27. In the Order entered December 10, 2014, approving the settlement in Columbia's 2014 base rate proceeding at Docket No. R-2014-2406274, the Commission stated that base rate settlements must stipulate a Return on Equity ("ROE") for DSIC purposes. (Order at 15.) The Commission noted that one option is to stipulate that the ROE for DSIC purposes will track the equity return rate from the most recent Commission staff Quarterly Report.

[22] Columbia St. No. 10, p. 7.

[22] Partial Settlement ¶ 28.

[22] Partial Settlement ¶ 29.

[23] Columbia St. No. 10, p. 7.

[24] Columbia St. No. 10, p. 13; Columbia Exhibit 107, p. 16, ln. 20

[25] Partial Settlement ¶ 30(i).

Columbia notes that this amortization is a continuation of a previously approved amortization and was not opposed by any party. Columbia Statement in Support of Partial Settlement at 8. Similarly, I&E notes that this term simply memorializes the Columbia's commitment made in a previous base rate proceeding. I&E Statement in Support of Partial Settlement at 9.

6. Amortizations – Other Post-Employment Benefits Expense

Pursuant to the Opinion and Order entered on May 24, 2012, at Docket No. P-2011-2275383, Columbia deferred, for accounting and financial reporting purposes, the one-time expense of $903,131 associated with its allocated share of NiSource Corporate Services Company's ("NCSC") OPEB regulatory asset resulting from NCSC's transition from cash basis to accrual. In the settlement of the 2012 Columbia base rate case at Docket No. R-2012-2321748, Columbia was allowed to recover the total deferred amount of $903,131 over a ten-year period that began on July 1, 2013. This Partial Settlement notes that the amortization is scheduled to end during the fully projected future test year, so Columbia will spread the remaining balance over the full 12-month period. Columbia maintains that this slight change to the previously-approved amortization is reasonable and should be approved.[26] Columbia Statement in Support of Partial Settlement at 8-9.

The OCA notes that this provision of the Partial Settlement addresses a previously established amortization and treatment of the last remaining balance. The OCA indicates that it supports this clarification. OCA Statement in Support of Partial Settlement at 8.

7. Amortizations – Pension Prepayment

The Final Order approving the Settlement of the Company's 2018 Base Rate Filing, at Docket No. R-2018-2647577, permitted Columbia to amortize and recover the deferred prepaid pension O&M expense of $8.45 million over a ten-year period starting

[26] Partial Settlement ¶ 30 (ii).

December 16, 2018.[27] The Partial Settlement in this case provides for the continuation of the previously approved ten-year amortization of $8.45 million that began December 16, 2018.[28] Columbia notes that no party opposed this provision. Accordingly, Columbia maintains that this Partial Settlement term is reasonable and should be approved because it continues the agreement established in the Commission-approved Settlement of the Company's 2018 Base Rate Filing. Columbia Statement in Support of Partial Settlement at 9.

OCA notes that after a review of the Company's proposal, and subsequent discovery, it did not oppose the Company's position on this issue. OCA Statement in Support of Partial Settlement at 8.

8. Amortizations – COVID 19 Related Uncollectible Accounts Expense

The Final Order approving the Settlement of the Company's 2021 Base Rate Filing authorized Columbia to defer and amortize incremental Uncollectible Accounts Expense related to COVID-19.[29] In this proceeding, the Company updated the balance of deferred COVID-19 related Uncollectibles Account Expense to reflect a billing charge off correction of $1,216,000 and amortization since January 1, 2022, of $1,115,849, leaving a remaining unamortized balance of $2,832,363. The Partial Settlement provides for the amortization of that amount over a four-year period beginning January 1, 2023, or $708,091 annually.[30] The Partial Settlement further provides that the Company agrees to cease the recording of any increases to the deferral and to provide an accounting of the yearly amortizations in its next base rate proceeding. Columbia Statement in Support of Partial Settlement at 9-10.

Columbia asserts that this Partial Settlement term is in the public interest and should be approved because it continues the previously-approved amortization of incremental

---

[27] Columbia St. No. 4, p. 9.

[28] Partial Settlement ¶ 30 (iii).

[29] Columbia St. No. 4, pp. 40-41

[30] Partial Settlement ¶ 30(iv).

COVID-19 related Uncollectibles Account Expense updated to reflect the current balance. Columbia Statement in Support of Partial Settlement at 10.

OCA notes that this provision defines the amount and plan for recovery of COVID-19 related Uncollectibles Accounts Expense, is in the public interest, and should be accepted by the Commission. OCA Statement in Support of Partial Settlement at 8.

9. Other Post-Employment Benefits

The Partial Settlement includes provisions concerning accounting for Columbia's ongoing contributions to trusts for OPEBs, which were established in the settlement of Columbia's 2012 base rate case at Docket No. R-2012-2321748.[31] These provisions were unopposed by any party and are in the public interest as they confirm the ongoing treatment of OPEB expense. Columbia will continue to defer the difference between the annual OPEB expense calculated pursuant to FASB Accounting Standards Codification ("ASC") 715, "Compensation – Retirement Benefits" (SFAS No. 106) and the annual OPEB expense allowance in rates of $0. Only those amounts attributable to operation and maintenance would be deferred and recognized as a regulatory asset or liability. To the extent the cumulative balance recorded commencing with the effective date of rates reflects a regulatory asset, such amount will be collected from customers in the next rate proceeding over a period to be determined in that rate proceeding. In addition, to the extent the cumulative balance recorded commencing with the effective date of rates reflects a regulatory liability, there will be no amortization of the (non-cash) negative expense, and the cumulative balance will continue to be maintained.[32] The Partial Settlement provides that Columbia will deposit amounts in the OPEB trusts when the cumulative gross annual accruals calculated by its actuary pursuant to ASC 715 are greater than $0. If annual amounts deposited into OPEB trusts, pursuant to this Partial Settlement, exceed allowable income tax deduction limits, any income taxes paid will be

[31] Columbia St. No. 4, p. 10.

[32] Partial Settlement ¶ 31.

recorded as negative deferred income taxes, to be added to rate base in future proceedings.[33] Columbia Statement in Support of Partial Settlement at 10-11.

OCA noted that, after a review of the Company's proposal, and subsequent discovery, the OCA did not oppose the Company's position on this issue. OCA Statement in Support of Partial Settlement at 9.

10. Reporting on Actual Capital Expenditures, Plant Additions, and Retirements

I&E witness Cline recommended that the Company provide certain updates to Exhibit No. 108.[34] Columbia did not oppose this recommendation. Accordingly, Columbia has agreed in the Partial Settlement that on or before April 1, 2023, it will provide the Commission's Bureau of Technical Utility Services ("TUS"), I&E, OCA and OSBA with an update to Columbia Exhibit No. 108, Schedule 1, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ending December 31, 2022.[35] On or before April 1, 2024, Columbia will update Exhibit No. 108, Schedule 1 for the twelve months ending December 31, 2023.[36] Also, as part of the Company's next base rate proceeding, the Company will prepare a comparison of its actual revenue, expenses and rate base additions for the twelve months ended December 31, 2023.[37] However, Columbia notes that it is recognized by the Joint Petitioners that this is a black box settlement that is a compromise of Joint Petitioners' positions on various issues. Columbia Statement in Support of Partial Settlement at 11.

Columbia asserts that this Partial Settlement term is in the public interest and should be approved because it will provide the statutory parties and TUS with ongoing

---

33 Partial Settlement ¶ 32.

34 I&E St. No. 3, pp. 3-4.

35 Partial Settlement ¶ 33.

36 *Id*.

37 *Id*.

information concerning Columbia's capital investments. This information can be used as a metric to gauge Columbia's actual capital investment, plant additions, retirements and expenses in future base rate proceedings. Columbia Statement in Support of Partial Settlement at 11.

I&E notes that the updates to Columbia Exhibit 108, Schedule 1 are important because there is value in determining how closely Columbia's projected investments in future facility comport with actual investments that are made by the end of the FTY and FPFTY. Furthermore, determining the correlation between Columbia's projected and actual results will help inform the Commission and the parties in Columbia's future rate cases as to the validity of Columbia's projections. I&E avers this term is within the public interest as it allows the parties and Commission to compare actual numbers to the Company's projections to gauge the accuracy of Columbia's projected investments in future proceedings. I&E Statement in Support of Partial Settlement at 10.

Similarly, OCA notes that this provision ensures that the statutory advocates and the Commission receive updated information on the Company's actual expenditures. As such, the OCA submits that providing the statutory advocates and TUS with an update in order to provide actual capital expenditures, plant additions, and retirements by month for 2022 is in the public interest. OCA Statement in Support of Partial Settlement at 9.

11. Future Debt Issuance

As part of the Partial Settlement, Columbia agreed that it will preserve and provide to I&E, OCA and OSBA as a part of its next base rate case the following: (1) all documentation supporting debt issued between this base rate case and the next base rate case; and (2) for each issuance the prevailing yield on U.S. utility bonds as reported by Bloomberg Finance L.P. for companies with a credit risk profile equivalent to that of NiSource Finance Corp.[38] Columbia and OCA maintain that this Settlement term is in the public interest and should be approved because it provides the statutory parties with important information to

[38] Partial Settlement ¶ 34.

evaluate the Company's debt issuances in a future rate case. Columbia Statement in Support of Partial Settlement at 12; OCA Statement in Support of Partial Settlement at 10.

I&E notes that this term was part of the 2018 Columbia base rate case settlement as a result of I&E's recommendation in that proceeding. Accordingly, I&E believes this term is within the public interest. I&E Statement in Support of Partial Settlement at 10.

12. Residential Customer Charge

In this proceeding, Columbia proposed to increase the customer charges for residential customers from $16.75 to $25.47 per month.[39] I&E proposed a residential customer charge of $20.61 per month.[40] However, the requested increase was opposed by OCA, CAUSE-PA, and the Task Force.[41] As part of the Partial Settlement, the Joint Petitioners have agreed that the residential customer charge will remain at the current rate of $16.75/month.[42] Columbia Statement in Support of Partial Settlement at 13.

OCA maintains that leaving the residential customer charge unchanged benefits all Columbia residential customers and is in the public interest. OCA Statement in Support of Partial Settlement at 10.

Additionally, OCA notes that the Partial Settlement also provides that Columbia will maintain its current method of collecting the full monthly customer charge from all customers, including residential customers, in the month when service begins and service ends.[43]

---

[39] Columbia St. No. 6, p. 23.

[40] I&E Statement No. 3, pp. 22.

[41] OCA St. No. 3, p. 15; CAUSE-PA St. No. 1, pp. 33-36; Task Force St. No. 1, pp. 4-6.

[42] Partial Settlement ¶ 36.

[43] Partial Settlement ¶ 38.

The Partial Settlement expressly reserves the right of OCA and other parties to address this practice in future base rate cases.[44] OCA Statement in Support of Partial Settlement at 10.

CAUSE-PA believes that maintaining the customer charge at its current level will protect the ability of low-income households to lower their utility costs by reducing consumption and preserve the Low-Income Usage Reduction Program's ability to effectively reduce customer bills and improve payment behavior.[45] Thus, CAUSE-PA asserts that this provision of the Settlement is just and reasonable and in the public interest and should be approved. CAUSE-PA Statement in Support of Partial Settlement at 4-5.

13. Weatherization Normalization Adjustment

Under the terms of the Partial Settlement, the Company shall continue to maintain and provide to the OCA, I&E and OSBA by October 1 of each year all reports and records supporting the operation of its WNA for the preceding year, including the Company's monthly computation of the WNA and all data underlying the Company's monthly WNA computation.[46] OCA Statement in Support of Partial Settlement at 10-11.

OCA believes that this provision of the Partial Settlement is in the public interest. The OCA and other interested parties will receive information regarding Columbia's existing WNA pilot. OCA Statement in Support of Partial Settlement at 11.

The OSBA notes that it has historically been skeptical of WNA mechanisms. The OSBA's concern is mainly focused on small businesses getting the wrong price signals in any given season. OSBA Statement in Support of Partial Settlement at 3.

---

44 *Id*.

45 CAUSE-PA St. 1 at 36.

46 Partial Settlement ¶ 37.

For Columbia, the Commission has historically approved Columbia's WNA as a pilot program for residential customers only. As such, OSBA does not oppose the mechanism. The Partial Settlement continues the residential WNA, and it requires Columbia to continue to provide annual reports to the statutory advocates detailing the results and impacts of the Company's WNA on Columbia ratepayers.[47] The OSBA uses these annual reports in its continuing evaluation of Columbia's WNA, in the event the mechanism should be applied to small business customers. OSBA Statement in Support of Partial Settlement at 3.

14. Proration of Customer Charge

I&E Witness Cline proposed that Columbia begin to prorate the customer charge for customers who begin or end service prior to the end of a billing period.[48] In rebuttal, Columbia explained a number of problems with I&E's recommendation. Columbia explained that its current practice of not prorating customer charges is a long-standing practice, consistent with the practice of most Pennsylvania utilities. I&E's recommendation also failed to take into consideration the cost of starting and terminating service, thereby shifting recovery of those costs from the customers starting or terminating service to other customers.[49] In addition, I&E's recommendation failed to take into account both the significant financial impact to Columbia, in the form of unbilled revenues, and the revenue requirement impact in this case. Specifically, initiating proration would reduce pro forma revenues at present rates by over $1.2 million, which would increase revenue requirement by that amount.[50] Columbia would also have to record a $4.3 million reduction to unbilled revenue from I&E's recommended change in billing.[51] Columbia Statement in Support of Partial Settlement at 12.

---

47 Partial Settlement ¶ 37.

48 I&E St. No. 3, pp 23-25.

49 Columbia St. No. 6-R, p. 31.

50 Columbia St. No. 3-R, p. 2.

51 Columbia St. No. 3-R, pp. 5-6.

As part of the Partial Settlement, the Joint Petitioners agreed not to adopt I&E's recommendation.[52] The Joint Petitioners reserved their right to address the issue in future rate cases. This provision is in the public interest and should be adopted. Through the Partial Settlement, the Joint Petitioners have agreed to accept and reject various proposals in compromise. As Columbia explained, this proposal would increase the revenue requirement in this case and have a substantial detrimental effect on Columbia's per book revenues by reducing unbilled revenue. Columbia Statement in Support of Partial Settlement at 13.

15. Revenue Normalization Adjustment

The Company proposed a Revenue Normalization Adjustment ("RNA") in this proceeding. The RNA proposed by the Company would provide benchmark distribution revenue levels regardless of changes in customers' actual usage levels and would adjust actual non-gas distribution revenue for the non-CAP residential customer class.[53] The OCA, I&E, CAUSE-PA and OSBA opposed the concept of implementing Rider RNA in this proceeding.[54] In the interest of resolving the issues in this proceeding through settlement, the Company has agreed to withdraw the RNA proposal without prejudice.[55] Columbia Statement in Support of Partial Settlement at 14.

OCA notes that the Company's agreement to withdraw its RNA proposal as part of the Partial Settlement is consistent with the OCA's positions in this case and maintains an appropriate balance of the risk of future reduced revenue or revenue uncertainty on the Company rather than consumers. Since consumers will not be subjected to the contested, proposed RNA rider, the OCA maintains that this provision of the Partial Settlement is in the public interest. OCA Statement in Support of Partial Settlement at 11.

---

[52] Partial Settlement ¶ 38.

[53] Columbia St. No. 6, p. 29-41.

[54] OCA St. No. 3, pp. 16-25; I&E St. No. 3, pp. 5-8; CAUSE-PA St. No. 1, pp. 36-38; OSBA St. No. 1, p. 30-34.

[55] Partial Settlement ¶ 39.

For its part, CAUSE-PA asserts that this provision of the settlement is just, reasonable, and in the public interest, thus it should be approved. CAUSE-PA Statement in Support of Partial Settlement at 5.

B. Energy Efficiency and Conservation ("EE&C) Plan

As the natural gas industry continues to evolve as a result of societal concerns in general and its customers' concerns in particular related to reductions to carbon emissions, Columbia has focused on developing solutions. In its 2021 base rate case, Columbia sought and obtained approval to add Renewable Natural Gas ("RNG") quality standards to its tariff. These standards facilitate the introduction of RNG on the Company's system, while protecting the Company's facilities and customer's equipment from potentially harmful impurities.[56] In continuation of these sustainability efforts, the Company proposed in this case a new Residential Energy Efficiency Plan ("EE Plan"). Columbia Statement in Support of Partial Settlement at 15.

Columbia's proposed residential EE Plan is a three-year plan with two programs.[57] The first program is the Residential Prescriptive ("RP") program. The RP program provides incentives for furnaces, boilers, combination space and water heating boilers, tankless water heaters and WIFI-enabled thermostats. The eligible equipment uses ENERGY STAR® criteria as a minimum efficiency level, when available.[58] The second program is the Online Audit Kit ("OAK"). The OAK Program provides residential customers with a free online audit that will provide targeted information to customers on how to reduce energy usage. Customers who complete the audit will be provided free, targeted energy savings kits.[59] Further details of the RP and OAK programs are provided in Columbia Exhibit TML-2.[60] As proposed, the EE Plan was projected to provide lifetime savings of 3.3 million Dths, at a cost of $8.1 million over

[56] Columbia St. No. 1, pp. 9-10.

[57] Columbia St. No. 16, pp. 2-3.

[58] Columbia St. No. 16, p. 10-11.

[59] Columbia St. No. 16, p. 12.

[60] Columbia St. No. 16, p. 4.

three years.[61] Additionally, the proposed EE Plan was projected to save 8,724 MWh of electricity and 146 million gallons of water over the life of the measures installed, with reduced emission of over 201,597 short tons of CO_2.[62] Under the Total Resource Cost test, Columbia's proposed EE Plan was projected to provide net benefits of $16.2 million.[63] Columbia Statement in Support of Partial Settlement at 15-16.

The Partial Settlement approves Columbia's EE Plan as a three-year pilot, with a limit of $4 million in recoverable costs.[64] This is responsive to I&E's concerns about the size of the pilot. Columbia also agreed to a collaborative with parties to discuss the scope of the program. In response to concerns of OCA and CAUSE-PA, Columbia agrees to leverage the residential EE Plan to increase awareness and participation in the Company's Low Income Usage Reduction Program ("LIURP") and Audits & Rebates ("A&R") program.[65] The EE Plan staff will work with the Company's Universal Service staff to steer low-income customers to the program that maximizes their benefit level. Columbia further agreed to increase the annual budget for the A&R program from $750,000 to $1,000,000 and increase the maximum energy efficiency benefit per household from the current $1,800 to $3,600.[66] Columbia Statement in Support of Partial Settlement at 16-17.

Columbia also explained in testimony that it offers an Emergency Repair Program to assist low-income customers who need repair or replacement of faulty heating equipment, gas lines or hot water tanks, which may include replacement with energy efficient equipment.[67]

---

[61] Columbia St. No. 16, p. 4, 6.

[62] Columbia St. No. 16, p. 5.

[63] Columbia St. No. 16, p. 9.

[64] Partial Settlement ¶ 40.

[65] The A&R program is already available to customers earning 250% or less of the Federal Poverty Income Guidelines. The program offers a free audit and free programmable or smart thermostat. (Columbia St. No. 13-R, p. 12).

[66] Partial Settlement ¶ 41.

[67] Columbia St. No. 13-R, p. 9.

Under the Partial Settlement, Columbia agrees to increase the annual budget for the Emergency Repair Program from $700,000 to $1,000,000, funded by Columbia's Rider USP – Universal Service Program.[68] Columbia Statement in Support of Partial Settlement at 17.

The EE&C provisions contained in the Partial Settlement are in the public interest and should be approved. The EE programs are patterned off EE programs offered by other natural gas utilities in Pennsylvania and other jurisdictions.[69] The pilot will provide important information on the benefits, both economic and environmental, of the EE Plan. In addition, Columbia is increasing its budgets for several low-income programs that currently assist low-income customers to reduce usage, which is in the public interest as it can reduce the bills of customers who may have difficulty paying their bills. Columbia Statement in Support of Partial Settlement at 17.

I&E notes that this Settlement term reflects a compromise between the Settling Parties as it allows Columbia to begin its proposed program as a pilot but allows the Parties the opportunity to review the data connected to the pilot to gauge its effectiveness. I&E submits that the three-year timeframe with its cost limit component places reasonable parameters on Columbia's program and is therefore in the public interest. I&E Statement in Support of Partial Settlement at 10-11.

OCA notes that this provision of the Partial Settlement addresses certain concerns raised by OCA witness Roger Colton regarding the impact of the proposed EE program on low-income consumers.[70] The proposed 3-year pilot, collaborative process, and goals and commitments agreed to as part of the Partial Settlement are in the public interest. Consumers will have additional access to energy efficiency measures through which they can reduce their consumption and consequently reduce their bills. Furthermore, the cap on program costs and the

---

[68] Partial Settlement ¶ 42.

[69] Columbia St. No. 16-R, p. 3.

[70] OCA St. 4 at 31-44.

collaborative process ensures that the program will remain adequately, but not overly, funded. OCA Statement in Support of Partial Settlement at 12.

CAUSE-PA maintains that these provisions of the Settlement will help expand the availability of energy efficiency measures and furnace repair services to low income customers who would not otherwise be able to afford them and will ensure low income households are more equitably served, in line with the Act 129 model.[71] Thus, they are just, reasonable, and in the public interest and should be approved by the Commission. CAUSE-PA Statement in Support of Partial Settlement at 6.

C. Low Income Usage Reduction Program (LIURP)

The Partial Settlement contains several terms related to Columbia's LIURP. LIURP provides weatherization and conservation services to low-income households with high usage. Columbia Statement in Support of Partial Settlement at 18.

Columbia currently has a base LIURP annual budget of $5,075,000. If Columbia is unable to spend its budget in a year, the amount is rolled over to future years. In direct testimony, Columbia witness Davis explained that the COVID-19 pandemic has adversely affected Columbia's ability to spend its entire annual LIURP budget. For several months in 2020, Columbia ceased all in-home weatherization efforts. Even after that, many customers were hesitant to have contractors enter their homes to provide services. Contractors also experienced staffing shortages that have limited their ability to provide weatherization services.[72] As of the end of 2021, Columbia had carry-over funds of $3,857,244.[73] Columbia Statement in Support of Partial Settlement at 18.

---

[71] *See* 66 Pa.C.S. § 2806.1

[72] Columbia St. No. 13, pp. 11-12.

[73] Columbia St. No. 13, p. 10.

Columbia continues to be concerned that it will be unable to spend its full 2022 budget, and the carry-over funds, in 2022. Contractors have been unwilling or unable to commit to higher levels of production, due in part to shortages of experienced workers and increased funding for other projects from the federal government.[74] Based upon these concerns, Columbia proposed to spread any carryover from 2022 evenly over the next three calendar years. This will better enable Columbia to project spending each year, and not set unrealistic expectations of work that actually can be performed.[75] Columbia Statement in Support of Partial Settlement at 18.

Witnesses for OCA, CAUSE-PA and the Task Force proposed that Columbia increase its LIURP budget.[76] In rebuttal, Columbia explained that, while it has a history of increasing its LIURP spending, it opposed increasing its current budget due to the existing carryover balance and difficulties in engaging contractors to provide increased services.[77] Columbia Statement in Support of Partial Settlement at 19.

The Partial Settlement approves Columbia's proposal to spread the remaining carryover LIURP balance at the end of 2022 evenly over the years 2023-2025.[78] The Partial Settlement further provides that Columbia will increase its annual LIURP budget from $5,075,000 to $5,425,000 beginning in January 2024 or sooner if 2022 carryover results in a year's annual budget being less than $5,425,000. The LIURP budget will remain at $5,075,000 until the increase takes effect. Columbia further agrees that it will expend the 2022 LIURP budget carryover before adjusting the Rider USP for the increase.[79] These terms recognize the need to spend the 2022 carryover balance, while also increasing the annual LIURP budget

---

74 Columbia St. No. 13, pp. 11-12.

75 Columbia St. No. 13, p. 13.

76 OCA St. No. 4, pp. 44-45; CAUSE-PA St. No. 1, pp. 25-29; PA Task Force St. No. 1, pp. 6-8.

77 Columbia St. No. 13-R, pp. 2-6.

78 Partial Settlement ¶ 43.

79 Partial Settlement ¶ 44.

beginning in 2024. These terms are in the public interest and should be approved. Columbia Statement in Support of Partial Settlement at 19.

OCA supports these provisions which provide clarity as to the disposition of unspent LIURP budget funds and require an increase in the LIURP budget. OCA witness Colton supported an increase to the LIURP budget as part of an overall approach to help low-income consumers benefit from efforts to improve energy efficiency.[80] As Mr. Colton explained, the expenditure of LIURP funds to improve the energy efficiency of housing occupied by low-income Columbia customers has ripple benefits, such as reducing the need for CAP credits.[81] OCA Statement in Support of Partial Settlement at 12.

CAUSE-PA maintains that these terms will help the Company serve additional homes through LIURP – helping to mitigate the disproportionate impact of the rate increase on households that otherwise are unable to meaningfully reduce their usage as a result of housing conditions. Accordingly, CAUSE-PA asserts that these terms are just and reasonable and in the public interest and should be approved by the Commission. CAUSE-PA Statement in Support of Partial Settlement at 8.

The Task Force asserts that this settlement is consistent with the Commission's obligation under the Natural Gas Customer Choice and Competition Act[82] to ensure that universal service programs are appropriately funded and available and that energy conservation measures are promoted and available to consumers, particularly low-income consumers. The increase in rates resulting from this case requires an examination of the Company's universal service programs to ensure that universal service programs remain appropriately funded and available. The Task Force joins in the settlement because it believes that it adequately addresses the funding of the Company's universal service programs considering this rate increase. Task Force Statement in Support of Partial Settlement at 2.

---

[80] OCA St. 4 at 41-46.

[81] *Id*. at 45-46.

[82] *See* 66 Pa.C.S. §§ 2201, *et seq*.

D. Hardship Fund

The Task Force recommended that Columbia increase its voluntary contribution to its Hardship Fund.[83] As part of the Partial Settlement, Columbia agreed to make a one-time donation of $75,000 to the Hardship Fund.[84] Columbia Statement in Support of Partial Settlement at 19.

OCA witness Colton addressed the importance of helping low-income customers, rather than just focusing on CAP customers.[85] Mr. Colton also described the challenges of low-income households in meeting utility bills and other necessities, based on a county-by-county self-sufficiency analysis.[86] OCA asserts that this Partial Settlement provision will provide some further resource to help those eligible households. As such, OCA supports this as in the public interest. OCA Statement in Support of Partial Settlement at 13.

CAUSE-PA notes that these additional funds will help ensure that emergency assistance is available to protect low income customers facing payment trouble due to the increase in rates and will better protect low income customers facing acute financial hardship from termination. Accordingly, CAUSE-PA asserts that this term is just, reasonable, in the public interest, and should be approved by the Commission. CAUSE-PA Statement in Support of Partial Settlement at 8.

The Task Force asserts that this settlement is consistent with the Commission's obligation under the Natural Gas Customer Choice and Competition Act to ensure that universal service programs are appropriately funded and available and that energy conservation measures are promoted and available to consumers, particularly low-income consumers. The increase in rates resulting from this case requires an examination of the Company's universal service

---

83 PA Task Force St. No. 1, p. 8.

84 Partial Settlement ¶ 45.

85 OCA St. 4 at 10-14.

86 *Id*. at 9-14.

programs to ensure that universal service programs remain appropriately funded and available. The Task Force joins in the settlement because it believes that it adequately addresses the funding of the Company's universal service programs considering this rate increase. Task Force Statement in Support of Partial Settlement at 2.

E. Customer Assistance Program

Witnesses for OCA and CAUSE-PA offered various recommendations related to Columbia's CAP.[87] Columbia submitted substantial rebuttal testimony responding to these recommendations.[88] Among these recommendations, CAUSE-PA proposed that Columbia revise its process for reviewing CAP customer bills to ensure they are receiving the lowest rate from a bi-annual review to a monthly review.[89] Columbia opposed this recommendation, explaining that the current bi-annual process already ensures that CAP customers are receiving the lowest payment, and that customers may always contact Columbia to request a payment review whenever circumstances change. Columbia also explained that the review process is done manually and would be costly to undertake monthly.[90] Columbia Statement in Support of Partial Settlement at 19-20.

In compromise, the Partial Settlement provides that Columbia will conduct quarterly evaluations of CAP customer bills and will make adjustments to the customer's CAP payment plan to ensure that they are getting the lowest rate. Because a review of all CAP customers' bills manually is not feasible, Columbia commits that by December 31, 2023, it will automate a process to conduct quarterly evaluations of CAP customer bills and will make adjustments to the customer's CAP payment plan to ensure that they are getting the lowest rate. Upon implementation of the automated process, Columbia will include all CAP customers in its quarterly CAP rate review. No other exclusions will be used unless explicitly approved by the

87 OCA St. No. 4; CAUSE-PA St. No. 1.

88 Columbia St. No. 13-R.

89 CAUSE-PA St. No. 1, p. 25.

90 Columbia St. No. 13-R, pp. 28-29.

Commission in a subsequent proceeding. The Partial Settlement further provides that IT costs related to the automation process will be recovered through Rider USP. By July 30, 2023, Columbia will file a progress report to the docket for this rate case explaining its progress toward implementing the automated process.[91] Columbia Statement in Support of Partial Settlement at 20.

Columbia believes that this provision is in the public interest and should be approved. The provision represents a compromise between the current bi-annual review process, and the monthly process proposed by CAUSE-PA. It also provides for an automation of the process, which will enable Columbia to review all CAP customers payment provisions on a quarterly basis. Thus, these settlement terms should be approved. Columbia Statement in Support of Partial Settlement at 20-21.

OCA supports this outcome as designed to improve the effectiveness of the CAP program and help CAP enrolled customers. In evaluating the impact of the full proposed rate increase, Mr. Colton explained that the increase would affect CAP customers differently, depending on whether the CAP customer was enrolled in the percentage of income or average bill program.[92] This Partial Settlement provision should help CAP customers. OCA Statement in Support of Partial Settlement at 13-14.

CAUSE-PA notes that in his Direct Testimony, CAUSE-PA witness Geller made several recommendations regarding Columbia's CAP program. Mr. Geller explained that Columbia's CAP rates are already unaffordable, and that many CAP customers will experience a significant, unmitigated rate increase that will further exacerbate already disproportionate financial burdens on low income families.[93] Mr. Geller recommended that Columbia be required to increase CAP participation, permanently adopt its relaxed income verification requirements, and reduce its CAP energy burdens to comply with the Commission's Final CAP Policy

---

91 Partial Settlement ¶ 46.

92 OCA St. 4 at 6-8.

93 CAUSE-PA St. 1 at 18-25.

Statement.[94] Mr. Geller also explained that Columbia currently conducts a bi-annual evaluation of CAP customer bills and makes adjustments to the customer's CAP payment plan but that this can leave CAP customers paying more than necessary for several months.[95] He also raised concerns that some subgroups of CAP participants were excluded from Columbia's CAP rate adjustment process.[96] As such, he recommended that the Company begin conducting monthly evaluation of CAP customer bills to ensure that customers are receiving the most advantageous CAP rate.[97] CAUSE-PA Statement in Support of Partial Settlement at 8-9.

CAUSE-PA notes that while this provision of the Settlement will not remediate the excessive CAP energy burdens outlined in Mr. Geller's testimony, it will help ensure that CAP customers receive the lowest CAP payment rate available to them and will reduce the amount of time they have to wait for an adjustment. These revisions are critically important to ensure compliance with section 1303 of the Pennsylvania Utility Code, which requires utilities "to compute bills under the rate most advantageous to the patron."[98] It will also help prevent certain CAP customers from being subject to rate discrimination by being excluded from the CAP review process due to arbitrary restrictions.[99] As such, this provision of the Settlement is just, reasonable and in the public interest and should be approved by the Commission. CAUSE-PA Statement in Support of Partial Settlement at 9-10.

F. Weatherization Partners

Community Based Organizations ("CBOs") are important partners in providing weatherization services under Columbia's low-income programs. Columbia currently contracts

---

94 CAUSE-PA St. 1 at 21-22.

95 *Id.* at 25.

96 CAUSE-PA St. 1-SR at 17-20.

97 *Id.*

98 66 Pa.C.S. § 1303.

99 *See* CAUSE-PA St. 1-SR at 17-20.

with six county weatherization providers, and continually seeks out more CBOs.[100] Under the Partial Settlement, Columbia agrees to continue to partner with CBOs including member agencies of the Community Action Association of Pennsylvania ("CAAP") and Pennsylvania Weatherization providers in the development, implementation and administration of its LIURP program.[101] This provision is in the public interest, as it confirms Columbia's continued efforts to partner with CBOs for LIURP weatherization services. Columbia Statement in Support of Partial Settlement at 21.

OCA notes that the expenditure of LIURP funds to improve the energy efficiency of housing occupied by low-income Columbia customers is an important goal, to capture many benefits for the household and the public.[102] This Partial Settlement provision confirms the continuation of this key relationship. Accordingly, the OCA supports this provision. OCA Statement in Support of Partial Settlement at 14.

CAUSE-PA maintains that this provision of the Settlement will help ensure that low income customers can access assistance administered in the communities in which they reside, and will help improve coordination of efficiency and weatherization programming consistent with statutory and regulatory coordination and service delivery priorities and requirements.[103] Administration and coordination of universal service programming through CBOs helps to ensure that low income households are holistically served, as CBOs most often administer other programming to help improve energy, food, and housing security. Thus, this provision of the Settlement is just, reasonable, and in the public interest and should be approved. CAUSE-PA Statement in Support of Partial Settlement at 10.

---

100 Columbia St. No. 13-R, p. 11.

101 Partial Settlement ¶ 47.

102 OCA St. 4 at 45-46.

103 *See* 52 Pa. Code §§ 58.6, 58.7; 66 Pa.C.S. § 2203(8).

G. Long-Term Infrastructure Improvement Plan (LTIIP)

I&E Witness Merritt expressed various concerns about the pace of Columbia's replacement of cast iron and bare steel pipe, and recommended that Columbia increase its pipeline replacement efforts.[104] In rebuttal, Columbia witness Anstead explained that Columbia intended to continue to replace bare steel, cast iron and wrought iron pipe at an accelerated pace in order to retire those remaining facilities as soon as possible. However, Mr. Anstead further explained that the Company has identified first generation plastic pipe as a top ten risk in its Distribution Integrity Management Plan due to the current and potential risk of brittle like cracking.[105] Mr. Anstead further explained that, first and foremost, the selection of pipeline segments for replacement is based upon risk.[106] Once a particular segment or segments have been identified for replacement, Columbia's engineers examine surrounding pipelines, and define the project area based upon various criteria, including age and condition, leakage history, material type, operating pressures, planned municipal street improvements and other factors. This is done to ensure a cost-effective approach to main replacement.[107] Columbia argues this approach maximizes risk elimination, while minimizing inefficient replacement of at-risk pipe in the same area over a period of several years.[108] Columbia already plans to continue to increase its capital budget to eliminate risky pipe as much as reasonably possible.[109] Columbia Statement in Support of Partial Settlement at 21-22.

The Company's Commission-approved LTIIP sets forth a projected five-year plan for replacement of certain infrastructure, including, in particular, mains, services, valves and meters. Columbia's current LTIIP expires on December 31, 2022. In response to I&E's

104 I&E St. No. 4, pp. 10-19.

105 Columbia St. No. 14-R, pp. 6-7.

106 Columbia St. No. 14-R, p. 7.

107 Columbia St. No. 14-R, p. 7.

108 Columbia St. No. 14-R, p. 7.

109 Columbia St. No. 14-R, p. 12.

concerns, Columbia commits, in the Partial Settlement, that prior to the expiration of its currently effective LTIIP, Columbia will seek approval of a new LTIIP, with a proposed effective date of January 1, 2023. Prior to filing for such approval, Columbia will meet with the Commission's Gas Safety Division to preview the filing and seek the Gas Safety Division's input and to discuss the issues raised in I&E witness Merritt's testimony in this base rate proceeding. All parties reserve the right to intervene and participate in that proceeding and any other proceeding. As part of that LTIIP filing, Columbia will provide an estimation of the rate impact of LTIIP-eligible investments over the approved LTIIP period.[110] Columbia Statement in Support of Partial Settlement at 22.

This provision of the Partial Settlement is in the public interest and should be approved. The LTIIP proceeding is the most appropriate proceeding to examine and establish future plans to replace critical infrastructure. Before filing its next LTIIP, Columbia will seek input from the Gas Safety Division regarding planned replacements. While safety is of paramount importance, Columbia recognizes that accelerated replacements will contribute to the need for future rate cases, as expressed in direct testimony from OSBA.[111] Therefore, the Partial Settlement also provides for Columbia to provide an estimate of the rate impact of the LTIIP-eligible investments proposed by Columbia for the approved LTIIP period. Columbia Statement in Support of Partial Settlement at 22-23.

I&E maintains that this term is important, as I&E witness Merritt indicated Pipeline Safety's concern regarding Columbia's pipeline replacement progress.[112] In particular, witness Merritt focused on the replacement of bare steel and cast iron pipe in relation to the goals stated in the Company's current LTIIP.[113] This term will allow Pipeline Safety to preview Columbia's filing prior to its submission to the Commission so that issues addressed by witness Merritt can potentially be resolved in that proceeding. Columbia's commitment to meeting with

---

110 Partial Settlement ¶ 48.

111 OSBA St.t No. 1, pp. 3-4.

112 I&E St. No. 4.

113 I&E St. No. 4, pp. 14-18.

members of Pipeline Safety to discuss issues addressed by I&E witness Merritt in this proceeding will help the Company to understand and implement replacement efforts that will alleviate safety concerns within its next LTIIP filing. As this term fosters the collaboration of the Commission's Safety Division and the Company before the filing of its next LTIIP, I&E submits this term is within the public interest. I&E Statement in Support of Partial Settlement at 12.

OCA maintains that this Partial Settlement term is in the public interest, as it should enhance the review process for the Company's future LTIIP. OCA Statement in Support of Partial Settlement at 14.

OSBA notes that in OSBA Statement No. 1, witnesses Ewen and Knecht detailed that Columbia's base rates are now the highest in the Commonwealth, and that there is essentially no end in sight, since nearly 40 percent of the Company's mains plant is in need of replacement. The Company is generally uninterested as to whether the expenditures required to make these replacements will result in an uncompetitive utility with massive levels of stranded cost, and Columbia has resisted any efforts to undertake longer-term competitive analyses. OSBA Statement in Support of Partial Settlement at 2.

The OSBA considers this behavior to be imprudent and irresponsible, and it deems that any stranded costs incurred by the Company associated with non-competitiveness must eventually be paid for by the shareholders. However, OSBA notes that requiring the Company to include the rate impact of its LTIIP investments when it next updates the plan to be a small step in the right direction.[114] OSBA Statement in Support of Partial Settlement at 2.

H. Natural Gas Supplier Issues

RESA/NGS Parties note that in their Prehearing Conference Memorandum, they identified two issues of concern that they intended to pursue in this matter, namely, Columbia's

[114] Partial Settlement ¶ 48.

practice of assigning each supplier only 50 rate codes, and Columbia's practice of providing confirmations of gas supply transportation schedules for only two of the five daily cycles. RESA/NGS Statement in Support of Partial Settlement at 2.

RESA/NGS Parties submitted written direct and surrebuttal testimony of two witnesses addressing the issues of concern. Mr. Cusati's Direct and Surrebuttal Testimony addressed the current operation of Columbia's billing system as it related to rate ready billing, what he believes are the deficiencies of the present system, and he offers recommendations for addressing the identified shortcomings. Rate ready billing is where suppliers provide Columbia with the rates they want to charge to customers through the use of rate codes. When a supplier enrolls a new customer, the supplier assigns that customer to the rate code that corresponds to the rate agreed-to with the customer. Then, each month, Columbia calculates the bill for each customer's natural gas usage by multiplying the usage by the rate associated with the customer's assigned rate code. In this manner, Columbia calculates the charges to the customer.[115] Mr. Cusati also addressed the fact that, in Ohio, Columbia already provides Bill Ready Billing, which is his proposed solution to the billing issues, and suggests that implementation in Pennsylvania should not be expensive. In Bill Ready Billing, Columbia transmits each customer's usage to each supplier each month and the supplier calculates the commodity portion of the customer's bill and sends that back to Columbia. This process avoids the use of rate codes and allows suppliers to provide more flexible billing arrangements that would otherwise be possible with rate ready billing. RESA/NGS Statement in Support of Partial Settlement at 2-3.

Mr. Caravetta's testimony focuses on the confirmation process that occurs as suppliers schedule the delivery gas to Columbia's city gates over interstate pipelines. Mr. Caravetta described that Columbia allows suppliers to schedule gas in any of the five periods recognized by the North American Energy Standards Board ("NAESB"), but that Columbia will only confirm schedules submitted on two of the five cycles and the potential for this lack of

[115] RESA/NGS Parties' Statement 1 & 1-SR.

confirmation to cause suppliers to incur penalties.[116] RESA/NGS Statement in Support of Partial Settlement at 3.

The Settlement, as to the RESA/NGS Parties' identified issues,[117] accomplishes a number of positive results that clearly place approval of the Settlement in the public interest. First, as to the billing code issue identified by Mr. Cusati,[118] Columbia has agreed to provide 125 billing codes per supplier where it currently provides only 50. The Settlement also obligates Columbia to provide up to 10 rate codes per request where now it typically provides 5 or 6. In the short term, the additional rate codes should help suppliers who serve multiple customers with unique rates to avoid the problem of running out of rate codes and being unable to price a contract for a customer. Second, Columbia has agreed to provide the information regarding expected costs and implementation timeline in its next rate case, that will allow the suppliers to propose, and the Commission to approve, Bill Ready Billing, which is used extensively in the electricity markets, should it choose to do so.[119] Under the Settlement's terms, all parties retain their rights to support or oppose Bill Ready Billing in that case. Finally, the Settlement withdraws the issue of the multiple cycle confirmations as proposed in Mr. Caravetta's testimony.[120] RESA/NGS Statement in Support of Partial Settlement at 3-4.

RESA/NGS Parties maintain that the Settlement is in the public interest primarily because it allows customers to better participate in the competitive market and will allow the suppliers who serve them to provide pricing without regard to the uniqueness of any particular rate. This is achieved by more than doubling the number of rate codes available to each supplier, while continuing to make sure that unused rate codes are recycled so as not to burden Columbia's system. This ensures that costs are minimized while at the same time allowing far

---

116 RESA/NGS Parties Statement Nos. 2 and 2-SR.

117 Partial Settlement, ¶¶ 49-51.

118 Partial Settlement ¶ 49.

119 Partial Settlement ¶ 50.

120 Partial Settlement ¶ 51.

greater flexibility for suppliers to price deals. RESA/NGS Statement in Support of Partial Settlement at 4.

The Settlement also preserves the opportunity for the RESA/NGS Parties to propose in Columbia's next rate case, that Columbia adopt Bill Ready Billing. As discussed, Bill Ready Billing does away with rate codes and requires suppliers to calculate the commodity charge on a customer's bill, while still requiring that the rate per unit of gas sold be shown on the customer's bill. For suppliers, Bill Ready Billing provides even greater flexibility than rate ready billing, because suppliers are able to adopt rate structures that may not fit neatly into the rate code paradigm. In short, without prejudicing any party's ability to oppose Bill Ready Billing, the Settlement provides the key ingredients to allow RESA/NGS Parties to advocate for its adoption in Columbia's next rate case and other parties to address the issue as they see fit. Accordingly, RESA/NGS Parties submit that this provision of the Settlement is in the public interest. RESA/NGS Statement in Support of Partial Settlement at 4-5.

As to ¶ 51 of the Partial Settlement, and the withdrawal of the proposal to require confirmations for all five NAESB cycles, parties are free to present that issue in a future proceeding. RESA/NGS Statement in Support of Partial Settlement at 5.

Because the proposals that are included in paragraphs 49-51 of the Settlement further the goals of advancing customer choice and making choice more accessible, RESA/NGS Parties submit that the Settlement is in the public interest and is just and reasonable. The fact that implementation of the sections of importance to RESA/NGS Parties is not likely to impose additional costs on Columbia or its customers is also important. The RESA/NGS Parties take no position on the other specific terms of the Settlement, but do agree that the settlement as a whole is just and reasonable and in the public interest. RESA/NGS believe these considerations, taken as a whole, support the justness and reasonableness of the provisions of paragraphs 49-51 and warrant their adoption without any modification and with all due haste. RESA/NGS Statement in Support of Partial Settlement at 5.

Columbia believes that these terms are in the public interest and should be adopted. They represent a compromise of the parties' positions on the RESA/NGS Parties issues. NGSs will be provided a substantial increase in the number of initial billing codes for Rate Ready billing, with the right to request further codes if needed. RESA/NGS Parties will also be provided cost and implementation timeline information for Bill Ready Billing in Columbia's next base rate case. However, Columbia is not committing to endorse Bill Ready Billing in the next rate case, and all other parties reserve the right to support or oppose a Bill Ready Billing proposal in the future. Columbia Statement in Support of Partial Settlement at 25-26.

CAUSE-PA maintains that this provision of the Settlement addresses the concerns of RESA/NGS about billing code limitations without putting consumers at risk due to the potential that non-basic charges will be assessed to their bill through Bill Ready Billing. Thus, this provision of the Settlement is just, reasonable, and in the public interest and should be approved. CAUSE-PA Statement in Support of Partial Settlement at 11.

I. Objection to the Joint Petition for Partial Settlement

Upon filing of the Joint Petition for Partial Settlement and the Joint Petition for Non-Unanimous Settlement Regarding Revenue Allocation and Rate Design on September 2, 2022, we issued a letter to the parties of record in this case inviting the non-settling parties to comment on the Joint Petitions. In that letter, we advised that comments were due by 4:30 p.m. on September 12, 2022.

On September 12, 2022, Mr. Culbertson submitted his timely Objection to both the Joint Petition for Partial Settlement and the Joint Petition for Non-Unanimous Settlement Revenue Allocation and Rate Design. In his Objection, Mr. Culbertson largely alleged that the Settlement reached in this matter is inappropriate because, contrary to the Commission's April 14, 2022, Order instituting an investigation into Columbia's rate increase filing, there was not an investigation as to the "lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc.'s existing rates, rules, and regulations." Mr. Culbertson maintained that the

proposed rates cannot be evaluated before the existing rates are investigated. Culbertson Objections at 6.

Mr. Culbertson stated that he is entitled to due process before and during a rate case proceeding, and that other participants agreeing to or not, do not have the authority to either limit or expand his rights as a Complainant in this case. Mr. Culbertson alleged that Columbia did not address his Complaint with an investigation as is required. Mr. Culbertson maintained that without an investigation, rates are not reliable as to what are actual legitimate costs, and that rates should consider actual legitimate cost. Culbertson Objections at 9-10.

Regarding Mr. Culbertson's argument that the Partial Settlement should be rejected because there was not a proper investigation into Columbia's filing, we would note that Mr. Culbertson raised a similar argument in his exceptions to Columbia Gas' last base rate case.[121] As with that case, the record in this case demonstrates that in addition to the testimony and exhibits provided by Columbia in support of its filing, the filing was subjected to an extensive and detailed investigation by the nine other active Parties in this proceeding. These parties include I&E, OCA, OSBA, RESA/NGS Parties, PSU, Task Force, CAUSE-PA, NRDC and CII. These parties engaged in extensive discovery with the Company, had their expert witnesses review Columbia's filing and testimony, submitted direct, rebuttal, and surrebuttal testimony analyzing Columbia's filing,[122] were represented by counsel at the evidentiary hearing in this proceeding during which their testimony and exhibits were admitted into the record, and engaged in settlement discussions that resulted in this Partial Settlement.

We would also note that in Columbia's most recent base rate case, the Commission noted the following:

> In the context of a general rate increase case such as this one, the Commission is aided by the active participation of

[121] *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket No. R-2021-3024296 (Opinion and Order entered Dec. 16, 2022).

[122] NRDC did not present expert witnesses in this proceeding.

> entities representing various subgroups of the entire public. A number of these active participants have a statutorily imposed obligation to provide this representation, while others are self-created entities choosing to represent a delineated subgroup. Taken as a whole, these active participants cover the entire spectrum of the public whose welfare is to be protected.
>
> The OCA is statutorily charged with the duty of representing "the interests of consumers", *i.e.*, individual ratepayers, "in any matter properly before the commission," such as the instant general rate increase case. 66 Pa. C.S. § 3206(a). The OSBA is statutorily charged with the duty of representing "the interests of small business consumers, in any matter properly before the commission," such as the instant general rate increase case. 66 Pa. C.S. § 3206(b). I&E is statutorily charged with taking "appropriate enforcement actions, including rate proceedings . . . to insure compliance with this title [Title 66, Pennsylvania Consolidated Statutes], commission regulations and orders." 66 Pa. C.S. § 308.2.(a)(11).
>
> One could argue that these three entities alone constitute representation of the entire public whose welfare is to be protected.[123]

All three of these entities, the Statutory Parties, actively participated in this proceeding as well, and all three participated in the negotiation of the Settlement contained in the Joint Petition for Partial Settlement and have stated their support for its adoption by the Commission.

Beyond OCA, OSBA and I&E, there were a number of other entities who actively participated in this case. These Parties included RESA/NGS, PSU, Task Force, CAUSE-PA, NRDC and CII. These Parties represented a variety of interests and participated to ensure that any approved rate increase was proper and in the public interest.

Regarding Mr. Culbertson's argument that he was denied due process in this proceeding, we note that Mr. Culbertson was provided with a full opportunity to be heard on his claims and to fully participate in this proceeding. Mr. Culbertson participated in discovery,

---

[123] *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket No. R-2021-3024296 (Opinion and Order entered Dec. 16, 2021) (*Columbia Gas December 2021 Order)* at 28, quoting *Pa. Pub. Util. Comm'n v. UGI Utils., Inc. – Elec. Div.*, Docket No. R-2021-3023618 (Opinion and Order entered Oct. 28, 2021) (*UGI Utilities*), at 37-38.

attended both public input hearings and questioned the witnesses who testified. Although he elected not to sponsor any written testimony, he had the opportunity to do so if he chose. Moreover, although Mr. Culbertson waived cross-examination of all witnesses in this proceeding, he was given the opportunity to do so if he chose. Lastly, in addition to his objections to the Joint Petition for Partial Settlement and Joint Petition for Non-Unanimous Settlement, Mr. Culbertson filed a Main Brief and a Reply Brief in this matter.

In light of the foregoing, we disagree with Mr. Culbertson's assertion that the investigation conducted in this base rate proceeding was improper, or that he was denied due process in this matter.[124]

Mr. Culbertson also took issue with Paragraph 21 of our May 3, 2022 Prehearing Order #1 which provided as follows:

> That the parties are to confer amongst themselves in an attempt to resolve all or some of the issues associated with this proceeding. The parties are reminded it is the Commission's policy to encourage settlements. 52 Pa. Code §5.231(a). The parties are strongly urged to seriously explore this possibility. If a settlement is reached, a joint settlement petition executed by representatives of all parties to be bound thereby, together with statements in support of settlement by all signatory parties, must be filed with the Secretary for the Commission and served on the presiding officers.

Mr. Culbertson maintained that this provision encouraging settlements does not supersede the three-member Commission's April 14, 2022 Order. Culbertson Objections at 6.

We would note that it is the policy of the Commission to encourage settlements. Our Prehearing Order #1 simply reminded the Parties to this case of this policy. However, it is

[124] As an administrative agency of the Commonwealth, the Commission is required to provide due process to the parties appearing before it. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984) (*Schneider*). Due process is satisfied when the parties are afforded notice and the opportunity to appear and be heard. *Id*. The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *Montefiore Hosp. Ass'n of W. Pa. v. Pa. Pub. Util. Comm'n*, 421 A.2d 481 (Pa. Cmwlth. 1980).

important to note that filing a Settlement does not mean that the Commission will automatically approve the Settlement. In order for us to recommend approval of the Joint Petition for Partial Settlement, we must determine that the terms and conditions contained within the Settlement are in the public interest. Since the Joint Petitioners have requested that the Commission approve the Joint Petition for Partial Settlement, they have the burden of proving that the terms and conditions of the Partial Settlement are in the public interest.[125] We will do our due diligence and make our recommendation as to whether the Partial Settlement is in the public interest in the next section.

Mr. Culbertson also took issue with the "black box" nature of the Settlement. Mr. Culbertson explained that the desire for expediency in rate cases does not override the law, and that it is not in the public interest to conduct rate cases with "black box" settlements devoid of compliance with the requirements placed upon the Commission in fulfilling its functions identified in 66 Pa. Code § 308.2 and other applicable laws, regulations and standards. Mr. Culbertson averred that the most significant benefit for black box settlements for the Commission is that the current high rates of Columbia have been partially attributable to the Commission's actions, and a settlement avoids accountability. Mr. Culbertson further averred that black box settlements circumvent internal controls placed in law to make public utilities and the Commission accountable for their actions – including omissions. Mr. Culbertson maintained that the Commission has a responsibility and duty to audit, question and determine whether or not costs are allowable. Culbertson Objections at 7-8.

Regarding Mr. Culbertson's assertion that "black box" settlements enable the Commission to disregard its responsibilities, we would again note that the Statutory Parties along with a number of other parties actively participated in this proceeding to ensure that any rate increase approved in this matter is proper and in the public interest. Moreover, the Commission has recognized that "black box" settlements can serve an important purpose in reaching consensus in rate cases:

[125] "Except as may be otherwise provided in Section 315 (relating to burden of proof) or other provisions of this part or other relevant statute, the proponent of a rule or order has the burden of proof." 66 Pa.C.S. § 332(a).

> We have historically permitted the use of "black box" settlements as a means of promoting settlement among the parties in contentious base rate proceedings. *See*, *Pa. PUC v. Wellsboro Electric Co*., Docket No. R-2010-2172662 (Final Order entered January 13, 2011); *Pa. PUC v. Citizens' Electric Co. of Lewisburg, PA*, Docket No. R-2010-2172665 (Final Order entered January 13, 2011). 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.

Peoples TWP at 28.

Mr. Culbertson has not presented any evidence or raised any arguments that would cause us to recommend rejection of the Partial Settlement in part or in total. Personal opinions, without more, do not constitute evidence and are insufficient to rebut the substantial evidence presented by Columbia, the Statutory Advocates, and the other active Parties to this proceeding.[126]

J. Recommendation

We find the proposed Partial Settlement to be reasonable and in the public interest. We therefore recommend approval without modification. The Partial Settlement represents a just and fair compromise of the serious issues raised in this proceeding. After substantial investigation and discovery, the settling parties have reached a reasoned accord on a broad array of issues resulting in just and reasonable rates for gas service rendered by Columbia.

As previously noted, the Partial Settlement is a "black box" settlement. This means that the parties could not agree as to each and every element of the revenue requirement

[126] *Mid-Atl. Power Supply Ass'n of Pa. v. Pa. Pub. Util. Comm'n,* 746 A.2d 1196 (Pa. Cmwlth. 2000) citing *Pa. Bureau of Corr. v. City of Pittsburgh,* 532 A.2d 12 (Pa. 1987).

calculations. Also as previously noted, the Commission has recognized that "black box" settlements can serve an important purpose in rate cases.[127]

It is also the Commission's duty to ensure that the public interest is protected. Therefore, there must be sufficient information provided in a settlement in order for the Commission to determine that a revenue requirement calculation and accompanying tariffs are in the public interest and properly balance the interests of ratepayers and the Company.[128]

In reviewing the terms of the Partial Settlement and the accompanying Statements in Support, the Partial Settlement provides sufficient information to support the conclusion that the revenue requirement and other settlement terms are in the public interest. The downward adjustment to the proposed revenue requirement, leaving the residential customer charge unchanged, along with all of the other terms and conditions of the Partial Settlement together represent a fair and reasonable compromise. The reduction to the revenue requirement and the stability of the residential customer charge are particularly important to the residential ratepayer who offered testimony raising concerns about the frequency of Columbia's rate increase requests and the amount he pays for service. Moreover, the Energy Efficiency and Conservation provisions, LIURP provisions, Hardship Fund provisions and CAP provisions contained within the Partial Settlement will provide important and necessary aid to low-income households as well as provide consumers with the ability to reduce their monthly bills by reducing their consumption. Regarding the safety concerns raised by the other residential ratepayer at the public input hearing, we note that the Partial Settlement addresses pipeline replacement and safety initiatives to be funded through increased revenue, as well as submission of a new LTIIP.

Also of note is that the Partial Settlement finds support from a broad range of parties with diverse interests. Each party represents a variety of interests. Columbia advocates on behalf of its corporate interests. The OCA is tasked with advocacy on behalf of Pennsylvania

---

[127] See *Peoples TWP* at 28.

[128] *See Pa. Pub. Util. Comm'n v. Pa. Power Co.*, 55 Pa. PUC 552 (1982); *Pa. Pub. Util. Comm'n v. Nat'l Fuel Gas Dist. Corp*., 73 Pa. PUC 552 (1990).

consumers in matters before the Commission.[129] The OSBA represents the interests of the Commonwealth's small businesses.[130] I&E is tasked with balancing these various interests and concerns on behalf of the general public interest. Each of these public advocates maintains that the interests of their respective constituencies have been adequately protected and they further represent that the terms of the Partial Settlement are in the public interest. Other interests were also represented, and they too support the Partial Settlement. These interests include public interest groups representing low-income customers (CAUSE-PA and the Task Force), energy suppliers (RESA/NGS Parties), and large volume users (CII and PSU). These parties, in a collaborative effort, have reached agreement on a broad array of issues, demonstrating that the Partial Settlement is in the public interest and should be approved.

Resolution of this proceeding by negotiated settlement removes the uncertainties of litigation. In addition, all parties will benefit by the reduction in rate case expense and the conservation of resources made possible by adoption of the proposed Partial Settlement in lieu of litigation. The acceptance of the Partial Settlement will negate the need for the filing of main and reply briefs on the issues contained in the Partial Settlement, exceptions and reply exceptions, and potential appeals. These savings in rate case expense serve the interests of Columbia and its ratepayers, as well as the parties themselves.

As to the non-settling parties, Mr. Serrano, Ms. Wile and Mr. Culbertson were each provided a copy of the Joint Petition for Partial Settlement and offered an opportunity to comment or object to its terms. Aside from Mr. Culbertson, who did submit a written Objection to the Partial Settlement and whose Objection has already been addressed, neither Mr. Serrano nor Ms. Wilde responded. Inasmuch as their due process rights have been fully protected, their formal Complaints can be dismissed for lack of prosecution.[131]

---

[129] Section 904-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 309-1.

[130] Section 399.45 of the Small Business Advocate Act, Act of December 21, 1988, P.L. 1871, 73 P.S. § 399.45.

[131] *See*, *Schneider* (Commission is required to provide due process to the parties; when parties are afforded notice and an opportunity to be heard, Commission requirement to provide due process is satisfied).

For all of the foregoing reasons, we find the terms embodied in the Joint Petition for Partial Settlement are both just and reasonable and its approval is in the public interest. Additionally, we find that the rates and rules proposed in Appendix A to the Partial Settlement are in the public interest and should be approved. We recommend the Commission approve the Partial Settlement without modification.

IX. DESCRIPTION OF THE NON-UNANIMOUS SETTLEMENT

Columbia filed a Joint Petition for Non-Unanimous Settlement on September 2, 2022. The Petition is 15 pages in length and includes the terms of the Non-Unanimous Settlement and 8 appendices attached as Appendix A through Appendix H. Appendix A sets forth the agreed to revenue allocation of the classes. Appendix B sets forth the agreed to rate design for the customer classes. Appendices C through and including Appendix H are the Joint Petitioners' Statements in Support of the Non-Unanimous Settlement.

X. TERMS AND CONDITIONS OF THE NON-UNANIMOUS SETTLEMENT

Pursuant to the procedural schedule in this proceeding, on September 2, 2022, I&E, OCA, PSU, CII, CAUSE-PA, Task Force, and Columbia filed a Joint Petition for Non-Unanimous Settlement Regarding Revenue Allocation and Rate Design ("JPNUS"), requesting that we and the Commission expeditiously approve the Non-Unanimous Settlement. JPNUS at 1-2. The JPNUS stated that the Non-Unanimous Settlement has been agreed to or unopposed by all active parties in this proceeding, except for the OSBA and Richard C. Culbertson. JPNUS at 2. The JPNUS also stated that RESA/NGS Parties and NRDC have indicated that they do not oppose the Joint Petition for Non-Unanimous Settlement. JPNUS at 2.

As fully set forth in the JPNUS, the Joint Petitioners agreed to a settlement of Revenue Allocation and Rate Design in this above-captioned general base rate proceeding. Simultaneous with the filing of the JPNUS, the parties to the Non-Unanimous Settlement and the OSBA filed a Partial Settlement, which, among other provisions, provides for increases in rates designed to produce $44.5 million in additional base rate revenue based upon the pro forma level

of operations for the twelve months ended December 31, 2023. The Non-Unanimous Settlement allocates that revenue increase among customer classes, and designs rates to recover the amounts allocated to the customer classes. JPNUS at 2.

The Joint Petitioners assert that the terms of this Non-Unanimous Settlement reflect a carefully balanced compromise of the interests of all the Joint Petitioners in this proceeding. The Joint Petitioners agree that the Non-Unanimous Settlement is in the public interest. JPNUS at 5. The Joint Petitioners request that both the Partial Joint Settlement and the Non-Unanimous Settlement, including the rates set forth in Appendix "B" attached to the JPNUS, be approved subject to the terms and conditions of this Non-Unanimous Settlement specified at the paragraphs below:

A. REVENUE ALLOCATION AND RATE DESIGN

23. Class revenue allocation will be approximately as shown in Appendix "A". Rate design for all classes shall be as shown in Appendix "B". Revenue allocation and rate design reflect a compromise among the Non-Unanimous Joint Petitioners and do not endorse any particular cost of service study.

24. Nothing herein is intended to modify the settlement terms contained in the Partial Settlement.

JPNUS at 5. The JPNUS asserts the Non-Unanimous Settlement is in the public interest, and is supported by the Joint Petitioners' Statements in Support. JPNUS at 6.

The JPNUS is also conditioned upon the standard conditions found in most settlements. For example, the JPNUS is conditioned upon the Commission's approval of the terms and conditions contained therein without modification. The Joint Petitioners agree that if the Commission modifies the Non-Unanimous Settlement, then any Joint Petitioner may elect to withdraw from the JPNUS and may proceed with litigation and, in such event, the Non-Unanimous Settlement shall be void and of no effect. Additionally, the Joint Petitioners agreed that the terms of the Non-Unanimous Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement the Non-Unanimous Settlement. The

Joint Petitioners also noted that a copy of the Non-Unanimous Settlement is being served on the customer Complainants. JPNUS at 6-8.

The JPNUS concludes by requesting that we approve the Non-Unanimous Settlement, including all terms and conditions thereof, without modification; that the Commission's investigation at Commission Docket R-2022-3031211, and the Complaints of the OCA (C-2022-3031767), CII (C-2022-3032178), PSU (C-2022-3031957), Constance Wile (C-2022-3031749), and Jose Serrano (C-2022-3031821) be marked closed; and that the Commission enter an Order authorizing Columbia Gas of Pennsylvania, Inc. to file a tariff or tariff supplement in compliance with the Commission's Order, effective for service rendered on and after December 17, 2022, containing the rates set forth in Appendix "B" of the JPNUS. JPNUS at 9.

XI. DISCUSSION OF THE NON-UNANIMOUS SETTLEMENT

A. Columbia's Position

Columbia submitted a Statement in Support, Main Brief and Reply Brief in support of the Non-Unanimous Settlement on Revenue Allocation and Rate Design. Columbia requests that we recommend approval of, and the Commission approve the Non-Unanimous Settlement, including the terms and conditions thereof, without modification. Columbia MB at 1; Columbia RB at 1.

Columbia asserts that the Non-Unanimous Settlement, if approved, will resolve the revenue allocation and rate design issues raised in this proceeding. Columbia MB at 1. Columbia states that the Joint Petitioners to the Non-Unanimous Settlement have agreed on a revenue allocation and rate design that allocates the $44.5 million in increased annual operating revenue to the various rate classes and designs rates to produce the agreed upon revenue requirement. Columbia MB at 2. Columbia argues: that the Non-Unanimous Settlement should be approved because it represents a compromise of the various litigation positions presented by the Joint Petitioners to the Non-Unanimous Settlement; that the revenue allocation set forth in

the Joint Petition for Non-Unanimous Settlement is within the range of the various cost studies presented by the parties in this proceeding, as scaled back to the revenue increase of $44.5 million, which demonstrates its reasonableness; that the revenue allocation and rate design agreed to in the Joint Petition for Non-Unanimous Settlement is in the best interests of Columbia, its customers, and the Joint Petitioners to the Non-Unanimous Settlement; and that the proposed rate design is designed to recover the costs allocated to the various customer classes and reflects a balanced approach of recovering the increased revenue requirement through both customer charges and commodity distribution charges. Columbia MB at 2, 7, 9; Columbia SISNUS[132] at 4-5.

Columbia further states that the revenue allocation proposed in the JPNUS appropriately moves classes toward the cost of service, while recognizing secondary considerations such as gradualism and value of service. Columbia MB at 6, 9-10. Columbia states that, as indicated by the Commonwealth Court in *Lloyd*, cost of service is the "polestar" of utility rates. Columbia MB at 9.[133] While other factors, such as gradualism, may be considered, these factors are not permitted to trump cost of service as the primary basis for allocating the revenue increase. Columbia MB at 9.[134] Consistent with the Commonwealth Court's directive in *Lloyd*, a proposed revenue allocation will only be found to be reasonable where it moves distribution rates for each class closer to the full cost of providing service. Columbia MB at 9.[135]

Columbia asserts that, even prior to *Lloyd*, Pennsylvania appellate courts recognized the importance of properly allocating a proposed revenue increase among a utility's rate classes. In *Philadelphia Suburban Water Company v. Pa. Pub. Util. Comm'n*, the court stated that:

---

[132] For purposes of this Recommended Decision, SISNUS stands for a Party's "Statement in Support of the Non-Unanimous Settlement."

[133] *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010 (Pa. Cmwlth. 2006) *appeal den.*, 591 Pa. 676, 916 A.2d 1104 (2007) (*Lloyd*).

[134] *Id.*

[135] *Pa. Publ. Util. Comm'n v. PPL Elec. Utils. Corp.*, Docket No. R-00049255, 2007 Pa. PUC LEXIS 55 (Order on Remand entered July 25, 2007).

> in order for a rate differential to survive a challenge brought under Section 1304 of the Public Utility Code [bar against rate discrimination], the utility must show that the differential [different rates among the classes] can be justified by the difference in costs required to deliver service to each class. The rate cannot be illegally high for one class and illegally low for another.[136]

Indeed, any significant departure from the results of a cost-of-service study requires the proponent to fully justify the deviation. Columbia MB at 9-10.

Although cost of service studies may appear to have great precision, the Commission has repeatedly recognized that the cost-of-service study is a guide to designing rates and is only one factor, albeit an important one, to be considered in the rate setting process. Columbia MB at 10.[137] Cost allocation studies require a considerable amount of judgment and are described as more of an accounting/engineering art rather than science. Columbia MB at 10.[138] The Commission has also recognized that a considerable amount of judgment is inherent in the development of cost-of-service studies, and as a result, cost-of-service studies can produce varying results. Columbia RB at 4.[139]

In Columbia's 2020 rate proceeding, Columbia notes that the Commission appears to have endorsed the peak and average ("P&A") study as the most appropriate methodology to allocate the revenue increase. Columbia MB at 10-11.[140] Although Columbia presented three allocated cost of service studies in the current case as providing a reasonable

---

136 *Phila. Suburban Water Co. v. Pa. Pub. Util. Comm'n,* 808 A.2d 1044, 1060 (Pa. Cmwlth. 2002).

137 *Aqua 2008*; *Pa. Pub. Util. Comm'n v. W. Penn Power Co.,* Docket No. R-00901609,119 P.U.R.4th 110 (Opinion and Order entered Dec. 13, 1990); *Pa. Pub. Util. Comm'n. v. Pa. Power & Light Co.,* 55 PUR 4th 185 (Opinion and Order dated Aug. 19, 1983).

138 *Application of Metro. Edison Co.,* R-00974008 (Opinion and Order entered June 30, 1998); *Pa. Pub. Util. Comm'n v. Pa. Power & Light Co.,* 55 PUR 4th 185 (Opinion and Order entered Aug. 19, 1983).

139 *Pa. Pub. Util. Comm'n v. Pa. Power & Light Co.,* Docket No. R-00842651 (Opinion and Order entered Apr. 25, 1985) (*Pa. Power and Light Co.*); *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.,* 31 PUR 4th 15 (1978) (*Philadelphia Electric Co.*).

140 *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc*., Docket No. R-2020-3018835 (Opinion and Order entered Feb. 19, 2021) (*Columbia Gas February 2021 Order*).

range of returns – the customer-demand ("CD") study,[141] the P&A study,[142] and the average study[143] – Columbia used the results of the P&A study as the primary guide for the allocation of the revenue increase, consistent with the Commission's decision in Columbia's 2020 rate case. Columbia MB at 11.[144] I&E and OCA supported Columbia's use of the P&A study as the primary basis for revenue allocation. Columbia MB at 11.[145] While OSBA noted its disagreement with the P&A methodology, it accepted the P&A study "for reasons of Commission precedent." Columbia MB at 11.[146] PSU recommended that the results of the CD study be used for allocating revenue. Columbia MB at 11.[147] CII supported PSU's position. Columbia MB at 11.[148]

Although the revenue allocation set forth in the Non-Unanimous Settlement reflects a compromise of the Joint Petitioners' revenue allocation proposals and is not based upon a specific agreed to formulaic approach or specific cost of service study results, the scaled-back revenue allocation proposed in the Non-Unanimous Settlement is within the range of revenue allocations proposed by the parties, which further evidences its reasonableness. Columbia MB at 11, RB at 4; Columbia SISNUS at 5. In particular, the class allocations are within the range of allocations of those parties that supported the use of the P&A studies, including the OSBA. Columbia MB at 11-12, RB at 2, 4-5; Columbia SISNUS at 5.

With respect to the Residential class, Columbia states the Joint Petition for Non-Unanimous Settlement would allocate effectively the same percentage of the revenue increase to Residential class as that proposed by OSBA in this proceeding. Columbia asserts the Joint

---

141 Exhibit 111, Schedule 1.

142 Exhibit 111, Schedule 2.

143 Exhibit 111, Schedule 3.

144 Columbia St. 6, pp. 4, 17.

145 I&E St. 3, pp. 12; OCA St. 3, pp. 8.

146 OSBA St. 1, pp. 15.

147 PSU St. 1, pp. 18.

148 CII St. 1, pp. 7.

Petition for Non-Unanimous Settlement proposes to allocate a slightly higher percentage increase to the SGS-1 class and a slightly lower percentage increase to the LDS class than what was proposed by OSBA. Columbia contends other classes (SGS-2 and SDS) also would be allocated increases comparable to that proposed by OSBA, as scaled back to the $44.5 million settlement increase. Columbia MB at 6.

Columbia notes that because of the disagreement among the parties over cost allocation studies and the "black box" nature of the Joint Petition for Partial Settlement, it is not possible to precisely calculate the extent to which the revenue allocation agreed to in the Non-Unanimous Settlement moves rates closer to cost of service for all Joint Petitioners. However, Columbia believes that the Non-Unanimous Settlement achieves progress in the movement toward cost-based rates and represents a fair and reasonable allocation of the agreed upon increase in annual operating revenue. Columbia MB at 12. Columbia asserts that, unlike OSBA's proposed revenue allocation, the revenue allocation proposed in the Joint Petition for Non-Unanimous Settlement gradually moves distribution rates for each class closer to the full cost of providing service. Columbia MB at 13-14, RB at 2, 5; Columbia SISNUS at 6-7.[149]

Additionally, Columbia argues the ALJs and the Commission should adopt the position of the Joint Petitioners to the Non-Unanimous Settlement and reject OSBA's proposed revenue allocation because OSBA's proposal ignores the principle of gradualism by assigning two times the system average to the LDS class. Columbia MB at 6, 11-13, RB at 2. By contrast, Columbia asserts the Joint Petition for Non-Unanimous Settlement ensures that no rate class is allocated an increase greater than two times the system average increase, consistent with the Commission's recent decision in Columbia's 2020 rate case. Columbia RB at 5.[150] Columbia contends that, while OSBA claims that this type of "indexed rate of return metric" is flawed and should not be used to measure whether a customer class's assigned revenue is moving closer to that class's cost of service, the Commission has historically relied on the indexed rate of return

[149] *Lloyd*; *Pa. Publ. Util. Comm'n v. PPL Electric Utils. Corp.*, Docket Nos. R-00049255, 2007 Pa. PUC LEXIS 55 (Order on Remand entered July 25, 2007).

[150] *Columbia Gas February 2021 Order*.

as a valid method to evaluate the reasonableness of a customer class's revenue allocation. Columbia RB at 5-6.[151]

Columbia notes that, in its Main Brief, OSBA asserts that its proposed revenue allocation is based on OSBA's P&A Study, which OSBA claims corrects certain "technical errors" in the Company's P&A Study.[152] In rebuttal testimony, Columbia witness Johnson acknowledged the technical errors, which were identified during the course of discovery, and also prepared a revised P&A Study that corrected these errors. Columbia RB at 3.[153] However, as Columbia witness Johnson explained, these technical errors were immaterial and did not change Columbia's originally proposed revenue allocation. Columbia RB at 3.[154]

Columbia also notes that the OSBA's P&A Study is also based on OSBA's design day demand allocation, which differs from the Company's proposed design day demand allocation.[155] OSBA witnesses Knecht and Ewen disagreed with Columbia's methodology for allocating design day demands based on their belief that the Company's design day demands are inconsistent with the Company's load forecast.[156] OSBA MB at 6. OSBA witnesses Knecht and Ewen proposed to modify the load factors to be more similar to those used in the Company's 2021 base rate case.[157] In rebuttal testimony, Columbia witness Johnson explained that, after correcting for technical errors, the net change in Columbia's design day volumes from the 2021 rate case to the 2022 rate case is only 0.3%.[158] Columbia witness Johnson also explained why Columbia's current methodology for allocating design day demand is reasonable and that the

---

151 *Pa. Pub. Util. Comm'n v. Phila. Gas Works*, 2010 Pa. PUC LEXIS 1006, Docket No. R-2009-2139884 (Recommended Decision June 21, 2010; Opinion and Order entered July 29, 2010).

152 OSBA MB at 5.

153 Columbia St. 6-R, pp. 14, Columbia Exhibit KLJ-1R.

154 Columbia St. 6-R, pp. 15.

155 OSBA MB at 6.

156 OSBA St. 1, pp. 16-18.

157 OSBA St. 1, pp. 18.

158 Columbia St. 6-R, pp. 20.

change in design day demand volumes from the 2021 case to the 2022 case can be attributed to customer behavior and growth.[159] Columbia notes that I&E witness Cline agreed with Columbia's reasoning for the design day demand shifts and agreed with Columbia that OSBA's adjustment should be rejected. [160] Columbia RB at 3-4.

Despite OSBA's criticisms of Columbia's and other parties' revenue allocation proposals, Columbia continues to support the revenue allocation proposed in the JPNUS as a reasonable compromise of the parties' positions that is in the public interest. Columbia concludes by stating that the ALJs and the Commission should reject OSBA's unreasonable litigation position on revenue allocation and instead approve the revenue allocation proposed in the JPNUS, which represents a reasonable compromise of the various revenue allocation proposals of the parties. Columbia RB at 4, 6.

Columbia states that the proposed changes to the rate design for all customer classes, as set forth in Appendix B to the JPNUS, reflect an accord reached between the Joint Petitioners as to the rate design to be used to recover the rate increases allocated under the Partial Settlement to the Company's customers. Columbia MB at 15. Columbia submits that the Non-Unanimous Settlement reflects an acceptable compromise of the competing litigation positions of the Joint Petitioners relative to rate design, is supported by the record, and should be approved. Columbia SISNUS at 8.

B. I&E's Position

I&E submitted a Main Brief and Reply Brief in support of the Non-Unanimous Settlement on Revenue Allocation and Rate Design. I&E asserts the Non-Unanimous Settlement fairly and reasonably allocates the increase in natural gas revenues among Columbia's customer rate classes. I&E notes it is charged with representing the public interest in rate proceedings before the Commission. As a result, I&E states it must scrutinize the filing from multiple

[159] Columbia St. 6-R, pp. 16-30.

[160] I&E St. 3-SR, pp. 13.

perspectives to determine what the appropriate result would be for the Company, as well as the customers, while also taking into account what is appropriate for utility regulation as a whole in the Commonwealth. I&E requests approval of the Joint Petition based on I&E's determination that the Settlement Agreement is in the public interest and meets all the legal and regulatory standards necessary for approval. I&E MB at 4-5.

I&E described the background to its support for the Non-Unanimous Settlement in part as follows: in this case, the Company performed and provided three allocated cost of service ("ACOS") studies in its filing: (1) a CD ACOS, (2) a P&A ACOS, and (3) an average of the CD and P&A ACOS.[161] The Company proposed to utilize the second method, the P&A study, to allocate the proposed revenue increases.[162] In direct testimony, I&E agreed with the Company as it believes that the P&A ACOS study should be utilized. I&E MB at 6.

The difference between the CD ACOS and the P&A ACOS is in the way that each study allocates costs of mains. Consequently, the two ACOS studies yield different relative rates of return for each rate class.[163] Generally, the CD study is more favorable to the industrial class and the P&A study is more favorable to the residential class. The CD methodology classifies distribution mains as partially customer related and partially demand related.[164] The customer portion of mains is then allocated to the various customer classes based on the total number of customers, while the demand portion is allocated to classes based on peak day contributions or demand. This methodology was rejected by the Commission in Columbia's 2020 base rate case. I&E MB at 6-7.[165]

---

[161] Columbia Exhibit No. 111, Schedule 1, Schedule 2, and Schedule 3; Columbia Statement No. 6, p. 4.

[162] Columbia Statement No. 6, p. 4.

[163] I&E Statement No. 3, p. 10.

[164] I&E Statement No. 3, p. 11.

[165] *Columbia Gas February 2021 Order* at 217-218.

The P&A ACOS allocates distribution mains to classes based partially on contributions to peak day demand and partially on annual consumption or average demand.[166] This methodology has been accepted by the Commission in Columbia's 2020 base rate case[167] and is the methodology recommended by I&E in this proceeding. I&E MB at 7.

In rebuttal testimony, the OSBA recommended adjustments to the P&A allocation.[168] OSBA witnesses Knecht and Ewen state that they adjusted their ACOS recommendation based on "what appears to be a significant shift in either the behavior customers or in the Company's method for deriving design day demands."[169] In rebuttal testimony, the Company responded to the OSBA's adjustments by explaining that it is possible that there were changes in customer behavior, contributing factors of colder weather in 2021/2022 versus 2020/2021, or any impact caused by the shut-off moratorium due to the COVID-19 pandemic.[170] However, Columbia concludes that the 2022 data is more representative of current customer usage and aligns better by rate class with the 2020 rate case than the 2021 rate case data.[171] I&E witness Cline found the Company's response reasonable and recommended that the P&A methodology be used and that the OSBA adjustments be denied.[172] I&E MB at 7-8.

I&E asserts the revenue allocation set forth in the Joint Petition not only reflects a compromise of the Joint Petitioners but also recognizes the influence of the P&A methodology. I&E also states that the agreed upon Revenue Allocation is within the range of reasonableness with respect to the residential class allocation and scale back that I&E recommended in direct testimony.[173] Additionally, the revenue allocation set forth in the Joint Petition not only reflects

---

166 I&E Statement No. 3, p. 11.

167 *Columbia Gas February 2021 Order* at 218.

168 OSBA St. No. 1-R.

169 OSBA St. No. 1-R, pp. 2.

170 Columbia St. No. 6-R, pp. 28.

171 Columbia St. No. 6-R, pp. 28-30.

172 I&E St. No. 13.

173 I&E Statement No. 3, pp. 13, 26.

a compromise of the Joint Petitioners, but it also produces an allocation that moves each class closer to its actual cost of service. This movement is consistent with the principles of *Lloyd*. Accordingly, this revenue allocation is in the public interest because it is designed to limit customer class subsidies, and to place costs upon the classes responsible for causing those costs. I&E MB at 8-9.

OSBA requests the Commission to adopt the OSBA's version of the Company's P&A cost of service study as it corrects significant errors made by Columbia.[174] However, I&E asserts the errors the OSBA addresses are moot as the Settling Parties agreed to a revenue allocation and rate design as a compromise to their positions taken within this proceeding. Additionally, I&E states that the Non-Unanimous Settlement also recognizes the influence of the P&A methodology that the OSBA agrees should be used in this proceeding. I&E RB at 1-3.

C. OCA's Position

The OCA filed a Statement in Support of the Joint Petition for Non-Unanimous Settlement Regarding Revenue Allocation and Rate Design. The OCA asserts the revenue allocation is consistent with the Cost of Service Studies ("COSS") presented in this case, and is consistent with applicable revenue allocation precedent and practice. Therefore, the OCA recommends that the Commission approve the revenue allocation agreed to by Columbia, the OCA, I&E, CII, and PSU as being consistent with cost of service, rate gradualism, and the law. OCA SISNUS at 2-3.

OCA witness Jerome D. Mierzwa noted that Columbia's reliance on the P&A Study as the basis of its proposed revenue distribution was consistent with Commission precedent. OCA SISNUS at 3. In testimony, OCA witness Mierzwa recommended a revenue distribution at proposed rates for the Company's claimed revenue deficiency based on Columbia's P&A ACOSS that more accurately reflected cost of service. OCA SISNUS at 5.[175]

---

[174] OSBA MB at 7.

[175] OCA St. 3, p. 11.

All of the parties in this proceeding who addressed allocation had different recommendations as to how to close these gaps and whether the Company's P&A COSS was the appropriate measure of cost of service. Rather than litigate the merits of each of these proposals in this proceeding, the settling parties have all agreed that the proposed allocation reasonably allocates the agreed upon revenue increase among customer classes, and designs rates to recover the amounts allocated to the customer classes. It is the OCA's position that the settlement allocation is consistent with precedent and principles of cost causation, and within the range of expected outcomes if this case were fully litigated. OCA SISNUS at 5.

Based on the testimony admitted into the record in this proceeding, the revenue allocation positions for residential customers ranged from a low of 57% of the awarded increase (OCA), to a high of 76% of the awarded increase (PSU). The following table shows the parties' scaled back revenue allocation positions:

Percent of Overall Increase Assigned to Particular Customer Class					
	RS/RDS	SGSS1/SCD1/SGDS1	SGSS2/SCD2/SGD S2	SDS/LGSS	LDS/LGSS
Columbia[176]	68.71%	8.43%	8.94%	7.51%	6.40%
I&E[177]	52.20%	10.09%	10.69%	15.20%	11.81%
OCA[178]	56.66%	11.61%	13.55%	9.92%	8.26%
OSBA[179]	59.55%	8.37%	13.40%	10.40%	8.27%
PSU[180]	76.11%	8.22%	9.86%	3.57%	2.23%
Settlement[181]	59.55%	10.2%	13.55%	10.4%	6.29%

OCA SISNUS at 5-6.

[176] Columbia St. 6, p. 20:7-11.

[177] I&E St. 3, p. 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.

[178] OCA St. 3-SR, p. 4, Table 1-SR.

[179] OSBA St. 1-S, p. 6, Table IEc-S3.

[180] PSU St. 1-SR, Exh. PSU-SR-1.

[181] JPNUS Appendix A.

Under the Revenue Allocation Petition, residential customers would be allocated $26.5 million of the total $44.5 million revenue requirement increase contained in the Settlement, or 59.6% of the increase.[182] This is consistent with the range of outcomes that were likely to result from litigation of this issue based on the parties' positions and is reasonably consistent with the OCA's litigation position. OCA SISNUS at 6.

While the OCA's scale back would have produced a lesser amount allocated to the residential class, the agreed upon allocation of $26.5 million is reasonable, is the product of compromise by the settling parties, and continues to recognize the principles of gradualism. It is important context that the parties had significant differences of opinion about the appropriate cost of service methodology to use in this proceeding and even those parties who shared a methodology arrived at different conclusions about how an allocation should be structured. Thus, this compromise ensures some certainty in the allocation for all parties involved without having to litigate the various cost of service proposals presented. OCA SISNUS at 6-7.

The settled revenue allocation reflected in the JPNUS is also approximately consistent with Company's initial filing. That is, the amount of increase given to residential customers would approximate the increase initially proposed by the Company (scaled down to the $44.5 million increase). As a result, the increase would be in line with the amounts proposed by the Company and contained in the public notices that went to consumers. OCA SISNUS at 7.

Given the public input testimony in this case and the ongoing pandemic and associated economic hardship, the OCA submits that allocating residential customers a substantially greater percentage of the increase than was initially proposed by the Company would not be prudent or reasonable.[183] The Commission recently acknowledged the impact that the COVID-19 pandemic may have on applying principles of gradualism and rate stability in allocating revenue increases in a base rate proceeding. [184] OCA SISNUS at 7.

---

182 JPNUS at Appendix A.

183 OCA St. 2, pp. 4-12.

184 *Columbia Gas February 2021 Order* at 233-234.

Based on the OCA's analysis of the Company's filing, discovery responses, and the testimony filed by all parties, the revenue allocation contained in the JPNUS represents a result that is within the range of likely outcomes in the event of full litigation of the case. The Partial Settlement and JPNUS, taken together, yields a result that is reasonable and in the public interest. The rate increases supported herein represent a difficult but reasonable result given the extraordinary circumstances resulting from the COVID-19 pandemic. OCA SISNUS at 7.

D. OSBA's Position

The OSBA filed a Main Brief and Reply Brief in support of its cost of service study and proposed revenue allocation. OSBA also filed objections to the JPNUS. The OSBA provided the following background in its briefs: In Columbia's base rates proceeding at Docket No. R-2020-3018835, the Commission approved the use of a P&A COSS methodology for mains cost allocation.[185] OSBA MB at 4.

In this proceeding, Columbia submitted three different COSS methodologies: P&A; CD; and the average of the two.[186] Unsurprisingly, and considering the Commission's decision in the Company's previous base rates case, Columbia primarily used the P&A COSS methodology in this proceeding, but does incorporate some results from the CD COSS.[187] OSBA MB at 4.

The OSBA notes that Columbia makes no attempt to defend its own revenue allocation proposal in its Main Brief. Specifically, Columbia offers no defense of its proposed revenue allocation based on its three allocated cost of service studies, or even based on the P&A cost of service study upon which the Company indicates it primarily relies. OSBA RB at 4-5.

---

185 *Columbia Gas February 2021 Order* at 211-218.

186 Columbia Exhibit 111, Schedules 1, 2, and 3.

187 OSBA St. No. 1, p. 14.

The OSBA accepts the use of the P&A COSS methodology based upon the precedent set forth in the *Columbia Gas February 2021 Order*. The OCA and I&E also relied upon the P&A COSS methodology in their respective testimony.[188] PSU advocated for the use of the CD COSS methodology in its direct testimony, and developed three alternative revenue allocation proposals more-or-less based on that method in surrebuttal.[189] As the PSU revenue allocation proposals were not advanced until the surrebuttal stage of the proceeding, the OSBA was unable to respond to those proposals through expert testimony. OSBA MB at 4-5.

OSBA explained its position regarding revenue allocation as follows: the OSBA's experts use the revenue-cost ratio, and each customer class's revenue increase relative to the system average, as the metric for determining progress towards cost of service. Furthermore, the ratio of the class percentage increase to the system average increase is also reported. OSBA MB at 11.

In surrebuttal, Witnesses Knecht and Ewen observed, as follows:

> [OCA] Witness Mierzwa agrees with our recommendations that the shortfall from the flex rate customers be allocated among the various rate classes based on the mains allocator, and that percentage rate increases to any particular class should not exceed 2.0 times the system average. Witness Mierzwa opines that we were ***unduly timid*** in moving rates into line with allocated cost, and that more progress can be achieved in this proceeding.[190]

The OSBA stated that OSBA witnesses Mr. Knecht & Mr. Ewen agreed to be more aggressive:

> We therefore developed a revised revenue allocation proposal, in which rates for SGS1, SGS2 and SDS classes are moved fully into line with allocated cost (inclusive of the responsibility for

188 OSBA St. No. 1-R, p. 1.

189 OSBA St. No. 1-R, p. 6; PSU St. No. 1-SR, pp. 15-18.

190 OSBA St. No. 1-S, p. 5 (emphasis added).

> the flex rate discounts). As with [OCA] Witness Mierzwa's proposal, the Residential class will continue to bear most of the shortfall from the LDS class. The primary difference between our revised proposal and that of Witness Mierzwa is that we rely on our revised ACOSS, while Witness Mierzwa has not accepted our proposed changes to the design day demand allocators. Our revised revenue allocation proposal is shown in Table IEc-S3 below and is detailed in IEc WPS3.[191]

OSBA MB at 11-12.

Table IEc-S3 is set forth, below:

Table IEc-S3
Summary of IEc Surrebuttal Revenue Allocation Proposal

	Increase $mm	**Increase %**	**R/C Current**	**R/C Proposed**	**"Progress"**
Residential	$48.86	11.6%	106.1%	103.7%	39%
SGS1	$ 6.87	14.3%	99.9%	100.0%	100%
SGS2	$10.99	21.9%	93.6%	100.0%	100%
Med Gen'l (SDS/LGSS)	$ 8.53	28.4%	88.4%	99.4%	95%
Lg Gen's (LDS/LGSS)	$ 6.78	28.4%	56.0%	63.0%	16%
MDS	--	0.0%	1333.7%	1167.9%	13%
Flex	$ 0.01	0.3%	NM	NM	NM
Total	**$82.06**	**14.2%**	**100.0%**	**100.0%**	**--**

Flex rate cost performance is not meaningful because $40 million shortfall is reallocated to other rate classes.
Source: IEc WP3

OSBA MB at 12.

The OSBA asserts that Table IEc-S3 demonstrates the progress towards cost-based rates in the OSBA's revenue allocation proposal:

- The Residential customer class makes significant progress towards its cost of service.

191 OSBA St. No. 1-S, p. 5.

- SGS1, SGS2, and SDS are moved to, or nearly to, their respective cost of service, as proposed by OCA Witness Mierzwa.
- The large industrial class makes progress towards its cost of service, but because the LDS class has so far to get to its cost of service, that progress is limited.

OSBA MB at 12-13.

In addition, Mr. Knecht and Mr. Ewen addressed the metric to measure "gradualism," as follows:

> We developed an alternative revenue allocation proposal that (a) relies on our alternative ACOSS, (b) is somewhat more aggressive in attempting to move rates into line with allocated cost for the smaller customer classes, and (c) allows for a larger rate increase for the LDS/LGSS class to reflect the enormous revenue-cost difference under current rates.
>
> [A] common rule of thumb for rate gradualism is to limit the increase for any particular rate class to no more than 1.5 or 2.0 times system average. Under normal conditions, the 1.5 times parameter will not unduly constrain the ability of the regulator to move rates substantially more into line with allocated cost. However, as shown in the Company's revenue allocation, the 1.5-times limit in this case produces little in the way of progress toward cost-based rates for the LDS/LGSS class. Thus, for the purposes of this proceeding, we assign the LDS/LGSS class an increase at the upper end of the range, or 2.0 times system average. This adjustment produces some modest progress toward cost-based rates, with the revenue-cost ratio moving from 54.6% under current rates to 61.4% under proposed rates.[192]

The OCA agreed with the OSBA that 2.0 times system average increase is an appropriate upper bound for gradualism. OSBA MB at 13;[193] OSBA RB at 7.[194]

---

[192] OSBA St. No. 1, pp. 24-25.

[193] OSBA St. No. 1-S, p. 5.

[194] OCA St. No. 3, pp. 10-11 and Table 3.

The OSBA also stated it acknowledges that a 1.50 times system average cap is often employed in Pennsylvania. However, the OSBA submits that the circumstances in this case require a different approach. Specifically, OSBA witnesses Ewen and Knecht explain that, under present rates, the LDS/LGSS rate class produces revenues far below average cost, with a revenue to cost ratio of 55 percent using the Company's P&A cost of service study method. With a 1.50-times system average limit, that value increases only to 59 percent at Columbia's proposed rates.[195] OSBA witnesses Ewen and Knecht therefore recommend that the higher rule-of-thumb limit of 2.0 times system average be used in this proceeding, to make at least some modest progress toward cost-based rates for the LDS/LGSS class.[196] OSBA RB at 7. OSBA also asserts that the Commission should recognize that the revenue allocation proposals put forth by OSBA witnesses Knecht and Ewen in both direct and surrebuttal testimony assign a larger increase to the combined SGS1/SGS2 classes than that proposed by the Company. OSBA MB at 13, RB at 5. The OSBA asserts its revenue allocation proposal is based on allocated cost that relies on Commission precedent; it is not based on blind advocacy. OSBA MB at 13.

The OSBA states that, although it accepts the use of the P&A COSS methodology for use in this proceeding, based upon recent Commission precedent, in reviewing the Company's execution of the P&A COSS methodology, OSBA contends Mr. Knecht & Mr. Ewen discovered a series of errors, as follows:

> in comparing the P&A ACOSS filed in this proceeding with that submitted in the 2021 base rates case, we identified a material change in the design day demand allocation factor. Also, in replicating the Company's ACOSS, we flagged three technical errors in the ACOSS that should be corrected.[197]

OSBA MB at 5.

---

195 OSBA St. No. 1, p. 24, Table IEc-4.

196 OSBA St. No. 1, p. 25.

197 OSBA St. No. 1, p. 15.

Finally, Mr. Knecht & Mr. Ewen identified a significant error in the Company's revenue allocation to the flex customer class. Columbia admits to this error. OSBA MB at 5.

Initially, Mr. Knecht & Mr. Ewen corrected these errors in Columbia's P&A COSS and set forth an updated P&A COSS in IEc WP-3. OSBA MB at 5. Later, Mr. Knecht & Mr. Ewen stated, as follows:

> [i]n rebuttal, [Columbia] Witness Johnson presents a revised allocated cost of service study ('ACOSS') that reflects technical corrections to the Company's originally filed ACOSS as explained in our direct testimony, and adjustments to the design day demand allocation factors to exclude inadvertently double-counted standby and elective balancing service ('EBS') demands.
>
> The Company's adjustments to the design day demand allocator have no impact on the residential and SGS1 design day demands, only a tiny impact on the design day demands for the SGS2 class, but they result in material reductions in design day demands for the SDS, LDS and Flex rate classes.
>
> The effect of these changes is generally to shift costs from the rate classes with larger customers (SDS, LGS and Flex) to the smaller customer classes (Residential, SGS1 and SGS2.
>
> We have replicated the Company's revised ACOSS, and we include an electronic version of the model as IEc WPS2 in Exhibit IEc-S1.[198]

OSBA MB at 5-6.

Finally, the OSBA notes there remains disagreement between Columbia and the OSBA regarding how the design day demand allocation factor is calculated. OSBA MB at 6. Ultimately, Mr. Knecht & Mr. Ewen stated, as follows:

> [w]e first conclude that the Company's method for allocating design day demand allocators among the rate classes is not

198 OSBA St. No. 1-S, p. 1 (formatting added).

> reasonable, because it fails to reflect design day conditions. In future base rates cases, the Company should modify its method accordingly.
> Second, we conclude that the Company has not justified the material shift in design day demands away from the residential class and to the SGS1 and SGS2 classes that it proposes in this proceeding. We therefore retain the adjustments that we recommended in our direct testimony, and we have incorporated those into the Company's revised ACOSS. Our updated ACOSS is provided electronically as IEc WPS3.[199]

OSBA MB at 6.

OSBA concludes by requesting that the ALJs and the Commission adopt the OSBA's version of the Company's P&A COSS, as it corrects significant errors made by Columbia. OSBA MB at 7; OSBA RB at 11.

The OSBA contends that, while I&E's Main Brief indicates that the Company has relied entirely on the P&A ACOS study, the Company's witness in this proceeding indicates that Columbia has indeed considered the results of the average ACOS study. As a theoretical matter, the OSBA agrees with Company witness Johnson that the parties should consider alternative cost allocation methods for revenue allocation issues. As OSBA witnesses Ewen and Knecht explained, including a customer component to mains costs reflects the economies of scale for serving larger customers.[200] However, the OSBA states that because it respects recent Commission precedent, the OSBA relied only on the P&A cost of service study methodology for its revenue allocation proposals in this proceeding. The OSBA asserts that, while a time may come when the Commission's decision from February 2021 can be reasonably contested, doing so at this time, strikes the OSBA as wholly inappropriate. OSBA RB at 9.

Thus, the OSBA asserts, an issue before the Commission in this proceeding is whether the cost basis for revenue allocation should be only the P&A ACOS method, which appears to have been the position of the I&E, OCA, and OSBA witnesses, or whether the CD

---

199 OSBA St. No. 1-S, p. 5.

200 OSBA St. No. 1, pp. 13-15.

method should also be factored into the calculus, which is the position of the PSU and Company witnesses. The OSBA observes that this issue goes not only to how this matter should be resolved in a litigation context for this proceeding, but also as to whether a settlement is reasonable. That is, can a settlement be deemed to be reasonable if it relies, in part, on the testimony of witnesses who reject the Commission's cost allocation precedent? The OSBA requests that the Commission provide clarity as to whether the CD cost of service study, or the Company's average-of-the-two cost of service studies, can or cannot be relied upon (even in part) for achieving a resolution to the issue of revenue allocation. OSBA RB at 9-10. Regarding relative rate of return, the OSBA argues that relative rate of return provides results that cannot be trusted, as it frequently shows that a customer class is moving towards its cost of service, when the complete opposite is true. OSBA MB at 8-9, RB at 11. The OSBA also disputes that Columbia's revenue allocation proposal makes material progress toward cost-based rates. OSBA MB at 9-10.[201]

In response to PSU, the OSBA states that it does not tailor its arguments, its cost of service study, or its revenue allocation proposals to benefit its clients. The OSBA states that its revenue allocation proposals in this proceeding are less favorable to the SGS classes than that proposed by the Company. The OSBA also states that it rejects the argument that cost of service studies are merely "subjective . . . judgments" that include "a wide range of beliefs on cost of service study principles" which "are far from being an exact art" as this was overruled by the Commonwealth Court in *Lloyd*.[202] OSBA RB at 12. The OSBA asserts that the Court stated that the cost of service was *the polestar criterion* in a rate case, not a subjective evaluation of a variety of different methods with no standard. OSBA RB at 12 (emphasis is original). The OSBA similarly disagrees with the statement by Columbia that "cost allocation studies require a considerable amount of judgment and are described as more of an accounting/engineering art rather than science."[203] The OSBA asserts the Company had to cite 1998 and 1983 cases for this thinking. This approach was rejected by the Commonwealth decision in *Lloyd*, where allocated

---

201 OSBA St. No. 1-R, pp. 2-3.

202 PSU MB at 9, 16-17.

203 Columbia MB at 10.

costs were established as the polestar criterion for ratemaking, and by the Commission in its February 2021 decision rejecting the specific methodology now being advanced again in this proceeding. OSBA RB at 6. If the Commission believes that both the P&A and CD cost allocation methods should be considered equally, it should rely on Columbia's average cost of service study. OSBA RB at 12. If the Commission believes that it should rely 90 percent on the P&A cost of service study methodology and 10 percent on the CD cost of service study methodology, it should require Columbia to make that evaluation in the future. OSBA RB at 12.

Additionally, the OSBA again notes that while it disagrees with the Commission's decision in Columbia's 2020 rate case regarding cost allocation, it has respected that precedent. The OSBA is concerned that if the Commission accepts the implication of PSU position that cost allocation be relitigated in each base rate proceeding (which the OSBA states for Columbia comes nearly every year), and that all cost allocation methods should be considered by the Commission in evaluating litigation and settlement positions, there will be no reason for parties such as the OSBA to refer to or adhere to precedent. OSBA RB at 12-13. The OSBA again requests that the Commission provide clarity as to whether there is one approved cost of service methodology for this proceeding, or whether multiple methods should always be considered. The OSBA again states that it does not disagree with PSU regarding consideration of a CD cost of service study. OSBA RB at 13. However, as set forth in the OSBA's Main Brief, the Commission was explicit in its February 2021 Order that the P&A methodology was to be used for Columbia, and that CD methodology was wholly rejected.[204] Additionally, the OSBA states that, although it understands that Commonwealth industrial customers are struggling, small businesses suffered heavily during the on-going the COVID-19 Pandemic and are being further crushed by inflation. The OSBA asserts that whether either argument sways the Commission to consider a CD cost of service methodology is not for the OSBA to say. OSBA RB at 13-14.

Regarding scaling back the revenue allocation, the OSBA states that, when the ALJs and Commission decide upon the final revenue allocation, the starting point is the cost-of-service methodology that is used. The next step is whether the ALJs and Commission approve

[204] OSBA MB at 6-7.

any modifications to that COSS methodology proposed by the various parties. Since the P&A methodology is the COSS of choice, the OSBA submits that its error-corrected P&A COSS should be adopted by the ALJs and the Commission. OSBA MB at 14.

The final step is how to scale back the revenue allocation in light of the final overall revenue increase.[205] OSBA MB at 14.

OSBA asserts that I&E proposes a novel approach of giving "first dollar relief" to the residential class.[206] As can be seen from the Table IEc-1R, set below, the LDS customer class is assigned a very large revenue increase under the I&E's methodology. If gradualism is 1.50 times, or even 2.0 times the system average increase, I&E's scale back proposal well exceeds that for the LDS class at a $44.5 million overall increase. Thus, while the OSBA does not support the I&E revenue allocation/scale back proposal, the OSBA also does not object to it. Table IEc-1R illustrates the I&E first dollar relief ("FDR") at the Company's full revenue request:

Table IEc-1R
Summary of Revenue Increase Allocation Proposals

	Columbia		**OSBA**		**OCA**		**I&E FDR**	
	($mm)	**%**	**($mm)**	**%**	**($mm)**	**%**	**($mm)**	**%**
Residential	$ 56.39	13.4%	$ 54.05	12.9%	$ 44.04	10.5%	$ 35.79	8.5%
SGS1	$ 6.92	14.4%	$ 6.75	14.0%	$ 10.90	22.6%	$ 6.92	14.4%
SGS2	$ 7.33	14.6%	$ 8.10	16.2%	$ 11.96	23.8%	$ 7.33	14.6%
Med Gen'l (SDS/LGSS)	$ 6.16	20.5%	$ 6.35	21.1%	$ 8.49	28.2%	$ 6.76	22.5%
Lg Gen'l (LDS/LGSS)	$ 5.25	22.0%	$ 6.78	28.4%	$ 6.75	28.2%	$ 5.25	22.0%
MDS	$ -	0.0%	$ -	0.0%	$ -	0.0%	$ -	0.0%
Flex	$ 0.01	0.3%	$ 0.01	0.3%	$ 0.01	0.3%	$ 0.01	0.3%

[205] OSBA St. No. 1-R, pp. 3-4, 6-7.

[206] OSBA St. No. 1-R, p. 3.

Total	$ 82.06	14.2%	$ 82.06	14.2%	$ 82.15	14.2%	$ 62.06	10.7%
Note: The OCA increase includes increases in other non-rate revenues. Percentage increases for I&E calculated net of $20 million first dollar relief adjustment. Source: IEc WP1 R								

OSBA MB at 14-15.[207]

The PSU revenue allocation and scale back proposal is premised on the use of CD COSS methodology. Nevertheless, the OSBA does not object to the use of the Penn State revenue allocation/scale back proposal if the Commission does adopt the CD COSS methodology. OSBA MB at 15.

The Columbia revenue allocation and scale back proposal is based upon its version of the P&A methodology, without the OSBA corrections. Regardless, the OSBA does not object to Columbia's revenue allocation/scale back proposal. OSBA MB at 15.

The OCA's revenue allocation and scale back proposal is based upon the OCA's proposed revenue allocation. OSBA MB at 15.

Finally, the OSBA submits that a standard proportional scale back is the most just and reasonable result. The scale back should be based upon the OSBA's revenue allocation proposal set forth above in Table IEc-S3. OSBA MB at 16.

The OSBA concludes by stating that the ALJs and the Commission will have to choose between the OSBA's proposed revenue allocation and the Non-Unanimous Settlement revenue allocation proposed by the other parties on September 2, 2022. In making that finding, the OSBA requests that the Commission provide as much clarity as it can to the parties regarding whether the CD cost of service methodology can be reasonably considered in this proceeding in light of the Commission's *Columbia Gas February 2021*decision; whether the Commission precedent in this proceeding should have any bearing on future Columbia base rate proceedings;

[207] OSBA St. No. 1-R, p. 3.

and whether the "rule-of-thumb" upper bound for rate gradualism of 1.50 times system average will provide sufficient progress toward cost-based rates in this proceeding to satisfy the requirements of *Lloyd.* OSBA RB at 14.

The OSBA also stated its opposition to the JPNUS in its objections filed September 12, 2022. The OSBA alleges the proposed revenue allocation set forth in the JPNUS is not based on record evidence and is not just and reasonable. OSBA Objections at 2. Specifically, the OSBA stated the JPNUS revenue allocation is inconsistent with the *Columbia Gas February 2021 Order* regarding use of a P&A method, and that the allocation of the rate increase among the various rate classes is unduly discriminatory. OSBA Objections at 2-7. The OSBA provided an overview of parties' revenue allocation proposals. OSBA Objections at 7-14. The OSBA concludes by stating that the JPNUS's revenue allocation must be rejected by the ALJs because there is no record evidence that would allocate an increase to the SDS/LGSS customer class that is more than 3.8 percentage points greater than the increase in the LDS customer class. OSBA Objections at 16. If the Commission does approve the JPNUS, the OSBA avers Commission precedent regarding cost allocation methodology will either be mostly or entirely irrelevant, a settlement can be deemed reasonable if the increases for each class are within the range of increases proposed by the various parties for that class, it will be implicitly accepted that an increase for some Columbia rate classes can reasonably exceed 1.5 times the system average, and settling parties will be encouraged to assign disproportionately large rate increases to unrepresented classes. OSBA Objections at 16-17. The OSBA does not oppose the JPNUS's position on rate design. OSBA Objections at 17-18.

E. PSU's Position

PSU submitted a Statement in Support, Main Brief, and Reply Brief in support of the Non-Unanimous Settlement on Revenue Allocation and Rate Design. PSU asserts the Rate Allocation/Design Settlement justly and reasonably allocates the agreed upon revenue requirement of $44.5 million, is in the public interest, is a fair and balanced black box approach, and should be approved. PSU MB at1; RB at 1; PSU SISNUS at 2. PSU also notes it is the policy of the Commission to encourage settlements. PSU MB at 1; RB at 13.

PSU states 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. PSU also states that 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. PSU MB at 2.

PSU notes that the Commission has stated:

> [C]ost-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.

PSU SISNUS at 12, MB at 2, 16; PSU RB at 8.[208]

PSU also asserts that 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. PSU SISNUS at 11-12; PSU MB at 16; PSU RB at 8-9.[209] PSU states that the record in this proceeding demonstrates a collection of wide-ranging, including subjective, judgments, 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. PSU SISNUS at 7; PSU MB at 9.

PSU disagreed with the litigation positions of the Company, OCA, OSBA, and I&E. PSU SISNUS at 7; PSU MB at 13. Specifically, PSU disagreed that the P&A COSS is the preferred COSS, recommending that the Commission adopt the CD COSS.[210] PSU MB at 13.

---

208 *Pa. Power and Light Co.* at 84.

209 *Pennsylvania-American Water Co.; Philadelphia Electric Co.*.

210 PSU St. 1, pp. 14:6-12, 16:37 – 17:2.

PSU also notes that Columbia found that the P&A COSS does over allocate mains investment to the larger industrial customers.[211] PSU MB at 14-15. However, PSU asserts that the litigation positions and outcomes here show why the Rate Allocation/Design Settlement is just, reasonable, in the public interest, balanced, and moderate. Specifically, PSU states that the Rate Allocation/Design Settlement is within the range of these litigation positions and 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. Additionally, PSU asserts the Rate Allocation/Design Settlement also 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. PSU MB at 9-10.

PSU presented the below charts comparing the litigation position of various parties to the settlement position.

Percent of Overall Increase Assigned to Particular Customer Class					
	RS/RDS	SGSS1/SCD1/SGDS1	SGSS2/SCD2/SGDS2	SDS/LGSS	LDS/LGSS
Columbia[212]	68.71%	8.43%	8.94%	7.51%	6.40%
I&E[213]	52.20%	10.09%	10.69%	15.20%	11.81%
OCA[214]	56.66%	11.61%	13.55%	9.92%	8.26%

[211] CPA St. 6-R, pp. 10:5-8, 12:3-11.

[212] Columbia St. 6, p. 20:7-11.

[213] I&E St. 3, p. 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.

[214] OCA St. 3-SR, p. 4, Table 1-SR.

OSBA[215]	59.55%	8.37%	13.40%	10.40%	8.27%
PSU[216]	76.11%	8.22%	9.86%	3.57%	2.23%
Settlement	59.55%	10.2%	13.55%	10.4%	6.29%

Comparison of Scaled Back Litigation Positions vs. Settlement Revenue Allocation

	CPA[1]		OCA[2]		OSBA[3]		I&E[4]		PSU[5]		Settlement	
	Allocation	**Increase**	**Allocation**	**Increase**	**Allocation**	**Increase**	**Allocation**	**Increase**	**Allocation**	**Increase**	**Allocation**	**Increase**
RS/RDS	$30,577,763	8.13%	$25,212,076	6.70%	$26,498,108	7.04%	$23,230,021	6.17%	$33,867,576	9.00%	$26,500,019	7.04%
SGSS1/SCD1/SGDS1	$ 3,752,254	7.81%	$ 5,166,273	10.76%	$ 3,726,845	7.76%	$ 4,488,601	9.35%	$ 3,656,336	7.61%	$ 4,537,000	9.45%
SGSS2/SCD2/SGDS2	$ 3,976,231	7.95%	$ 6,030,930	12.06%	$ 5,961,404	11.92%	$ 4,755,919	9.51%	$ 4,387,603	8.78%	$ 6,030,000	12.06%
SDS/LGS	$ 3,339,868	11.11%	$ 4,414,844	14.69%	$ 4,627,285	15.40%	$ 6,762,891	22.50%	$ 1,588,393	5.28%	$ 4,627,000	15.39%
LDS/LGS	$ 2,847,357	11.91%	$ 3,675,877	15.38%	$ 3,679,219	15.39%	$ 5,253,498	21.98%	$ 992,576	4.15%	$ 2,800,000	11.71%
MDS/NSS	$ 1	0%	$ -	0%	$ -	0%	$ 224	0.02%	$ 122	0.01%	$ -	0.00%
Flex/NCS	$ 6,526	0.21%	$ -	0%	$ 7,139	0.17%	$ 8,845	0.21%	$ 5,981	0.14%	$ 5,981	0.14%
Total	$44,500,000	8.33%	$44,500,000	8.33%	$44,500,000	8.33%	$44,500,000	8.33%	$44,500,000	8.33%	$44,500,000	8.33%

[1] The CPA allocation was derived by applying the Company's proposed allocation percentages for each class to the to the agreed-upon revenue increase. *See* CPA St. 6 at 20:7-11. Increase percentages were derived by dividing the allocation by the Company's current base revenue. *See* CPA Exh. 103, Sch. 8, Pg. 4, Ln. 20.

[2] The OCA allocation was derived by applying the OCA's proposed scale back methodology to OCA's litigation position on revenue allocation. *See* OCA St. 3-SR at 4, Table 1-SR; *see also* OCA St. 3 at 12:23-25. Increase percentages were derived by dividing the OCA allocation by the Company's current base revenue. *See* CPA Exh. 103, Sch. 8, Pg. 4, Ln. 20.

[3] The OSBA allocation was derived by proportionally scaling back OSBA's litigation position on revenue allocation. *See* OSBA St. 1-S at 6, Table IEc-S3. Increase percentages were derived by dividing the OSBA allocation by the Company's current base revenue. *See* CPA Exh. 103, Sch. 8, Pg. 4, Ln. 20.

[4] The I&E allocation was derived by applying I&E's scaleback methodology to the Company's as-filed revenue allocation. *See* I&E St. 3 at 26:13-18; *see also* I&E Exh. 3, Sch. 6, Pg. 2. Increase percentages were derived by dividing the I&E allocation by the Company's current base revenue. *See* CPA Exh. 103, Sch. 8, Pg. 4, Ln. 20.

[5] The PSU allocation was derived by proportionally scaling back PSU's alternative 3 revenue allocation. *See* PSU St. 1-SR, Exh. PSU-SR-1. Increase percentages were derived by dividing the PSU allocation by the Company's current base revenue. See CPA Exh. 103, Sch. 8, Pg. 4, Ln. 20.

PSU MB at 10, 16.

PSU also states that 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. PSU MB at 17. More specifically, allocating the increase in the

215 OSBA St. 1-S, p. 6, Table IEc-S3.

216 PSU St. 1-SR, Exh. PSU-SR-1.

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:

Class	Current Base Revenue[217]	Allocation	Percentage Increase[218]	Increase Relative To The System Average Inc.[219]
RS/RDG/RDS/RDGDS/ RC2	$376,337,071	$26,500,019	7.04%	0.85
SGSS1/SCD1/SGDS1	$48,026,277	$4,537,000	9.45%	1.13
SGSS2/SCD2/SGDS2	$49,996,372	$6,030,000	12.06%	1.45
SDS/LGS	$30,056,285	$4,627,000	15.39%	1.85
LDS/LGS	$23,906,690	$2,800,000	11.71%	1.41
MDS/NSS	$1,445,860	$0	0.00%	0.00
Flex/NCS	$4,265,890	$5,981	0.14%	0.02
Total	$534,034,445	$44,500,000	8.33%	1.0

PSU SISNUS at 10-11, MB at 17.

PSU argues that, 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 system average, which is consistent with principles of gradualism. PSU SISNUS 11; PSU MB at 17-18.[220]

PSU argues the Commission should not adopt OSBA's preferred cost of service study and revenue allocation. PSU asserts OSBA relies on the incorrect legal premise (offered in its witnesses' testimony) that the Commission is bound by its previous decision in the 2020 base rate case of Columbia Gas where the Commission relied on the OCA's P&A COSS *as a guide*

[217] Columbia Exh. 103, Sch. 8, P. 4, Ln. 20.

[218] Allocation ÷ Current Base Revenue = Percentage Increase.

[219] Class Percentage Increase ÷ Total Percentage Increase = Increase Relative to System Average Increase.

[220] *Columbia Gas February 2021 Order* at 233.

for revenue allocation. PSU RB at 1 (emphasis in original). PSU argues that, contrary to the OSBA's claims, it is well-settled that the Commission is not required by law to follow its decisions or "precedent" (a doctrine known as "stare decisis").[221] PSU RB at 1-2, 6. Rather, the Commission need only explain why it rules differently in like circumstances.[222] PSU RB at 2, 6. So long as the Commission is able to explain why a different result is warranted based upon substantial evidence, the Commission's decision is not arbitrary or capricious. PSU RB at 6-7.

PSU argues there are not like circumstances here as explained below since the OSBA and its witness fundamentally misunderstand that the decision it cites as alleged precedent involved a situation where the ALJ found, and the Commission adopted as its decision, that the COSS method PSU and the Company favored or presented would have been adopted were it not for the alleged 'errors' in that method as argued by OCA. PSU MB at 13-14; PSU RB at 2, 7. PSU states those errors were corrected here in the present case—so there are not "like circumstances."[223] PSU RB at 2, 7. Additionally, PSU states that it has presented novel evidence which demonstrates that the Company's process for determining new mains investment does not consider average annual demand, but is rather a function of the location and peak demand of the new customer.[224] The Company has likewise demonstrated that the P&A COSS over allocates mains investment to the Company's largest customers.[225] PSU RB at 7. Thus, PSU states, OSBA's precedent argument, presented by a non-lawyer in OSBA's testimony, that the Commission rigidly adopted the P&A method is simply and fundamentally wrong as a matter of both fact and law. PSU RB at 2, 7-8. Additionally, PSU notes that the settlement parties do not endorse any COSS method; rather, it is a compromise between the two methods without admission and consonant with the Commission's policy to encourage settlements including "black box" settlements as is the case here. PSU RB at 2, 7-9, 13-14.

---

221 *PECO Energy Co. v. Pa. Pub. Util. Comm 'n*, 791 A.2d 1155 (Pa. 2002) (*PECO*).

222 *Id.*

223 PSU St. 1, pp.12:11 – 13:26.

224 PSU St. 1, pp. 14:15 – 18:12.

225 Columbia St. No. 6-R, pp. 9:7 – 10:8.

PSU also states that, contrary to OSBA's argument, the Commission has adopted other COSS methodologies since the Commission's decision in the 2020 base rate case of Columbia Gas, such as the Average and Excess method.[226] PSU RB at 2-3, 9. Thus, PSU concludes, there is nothing preventing the Commission from deciding the issue of cost of service and revenue allocation differently than it has in past Columbia Gas base rate cases. PSU RB at 3, 9.

PSU notes that the Commission does encourage settlements and has previously adopted non-unanimous black box revenue allocation and rate design settlements.[227] More specifically, the Commission has found that there is substantial evidence and support for non-unanimous black box settlements of revenue allocation where the outcome is within the range of likely litigated outcomes supported by expert witness testimony.[228] PSU RB at 3, 10.

PSU also asserts that, when compared to OSBA's litigation position, the Rate Allocation/Design Settlement works for all rate classes, better incorporates principles of gradualism by mitigating OSBA's litigation position in measurable ways, and is consistent with the record evidence. PSU RB at 3, 12, 18. Conversely, PSU argues, OSBA's allocation contemplates allocating significant increases to the medium general (SDS/LGSS) and large general (LDS/LGSS) classes.[229] More specifically, PSU notes 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. PSU MB at 18. PSU argues the medium general and large general classes fare no better under OSBA's 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. PSU RB at 12; PSU MB at 18-19. PSU asserts these increases are not in the public interest, and do not result in

---

226 *Pa. Pub. Util. Comm'n v. PECO Energy Co. – Gas Division*, Docket Nos. R-2020-3018929, 2021 WL 2645922 (Opinion and Order entered June 22, 2021).

227 52 Pa. Code §§ 5.231(a), 69.401; *see also Pike County*.

228 *Pike County* at 22; *see also City of Bethlehem Water* at 22.

229 OSBA St. 1-S, p. 6, Table IEc-S3.

just and reasonable rates. PSU cites CII's witness Plank for the assertion that such increases would detrimentally impact the largest customers who are already struggling in today's economic climate.[230] PSU MB at 19.

PSU concludes that the Presiding Officers and the Commission should reject the OSBA's position that the P&A COSS must be used as a guide for revenue allocation in this proceeding. PSU RB at 10. Rather, the Commission should adopt the revenue allocation set forth in the Rate Allocation/Design Settlement that represents a compromise among competing positions that was obtained after meaningful and extensive settlement negotiations, is supported by substantial evidence in this proceeding, results in rates that are just and reasonable, and is in the public interest. PSU SISNUS at 12; PSU RB at 10.

F. CII's Position

CII submitted a Statement in Support of the Non-Unanimous Settlement on Revenue Allocation and Rate Design. CII supports the Non-Unanimous Settlement as a reflection of compromise of the various litigation positions put forth throughout this proceeding, while also recognizing the public interest. CII SISNUS at 4. CII submits that the Rate Allocation and Rate Design set forth in the Non-Unanimous Settlement should be approved without modification because it is consistent with the record evidence, is a result of compromise on varying positions, and represents the public interest. CII SISNUS at 6.

While CII did not specifically address the appropriate COSS to be used in this proceeding, CII's testimony did note that the unending and considerable rate increases applied to Rate LDS create innumerable challenges for energy-intensive businesses to weather, including to CII's one member, Knouse, which cannot automatically flow these costs through to its customers.[231] CII SISNUS at 5.

---

[230] CII St. 1, pp. 8:3 – 9:2.

[231] CII St. 1, pp. 8-9.

While a wide range of outcomes would result from the allocation of the resulting rate increase by the various parties, the Rate Allocation/Rate Design presented in the Non-Unanimous Settlement is within the range of these litigation positions.[232] Specifically, the Rate Allocation and Rate Design set forth in the Non-Unanimous Settlement considered all of the parties' positions and melded them together to come to an amicable resolution of the issues, which presents a mutually acceptable compromise of the positions that is in the public interest.[233] As a result, the Non-Unanimous Joint Petition leads to a rate design that is balanced, moderate, and a reasonable settlement compromise of the competing revenue allocations presented in this proceeding. While an 11.71% increase will still significantly impact Knouse's energy expenses, this increase is at least less than that initially proposed by Columbia, while also providing Rate LDS some relief via a scaleback that is being applied to the other customer classes. CII also notes that approval of the Non-Unanimous Settlement will permit the Commission and Joint Petitioners to avoid incurring the additional time, expense, and uncertainty of further litigation in this proceeding. CII SISNUS at 5-7.

G. CAUSE-PA's Position

CAUSE-PA submitted a Statement in Support of the Non-Unanimous Settlement on Revenue Allocation and Rate Design. CAUSE-PA notes that the Non-Unanimous Settlement attempts to resolve the issues of allocation and rate design and will limit the amount of the agreed upon increase that will be allocated to the residential class, which will, in turn, lessen the amount of the rate increase that will be shouldered by low-income customers.[234] CAUSE-PA SISNUS at 2.

Although CAUSE-PA's positions in litigation were not fully adopted, the Settlement was arrived at through good faith negotiation by all parties. The Settlement is in the public interest in that it (1) addresses low-income customers' ability to access safe and affordable

232 PSU MB at 9-10.

233 *Id*.

234 JPNUS at 23-24.

natural gas service, (2) balances the interests of the parties, and (3) fairly resolves a number of important issues raised by CAUSE-PA and other parties. If the Settlement is approved, the parties will also avoid the considerable cost of further litigation and/or appeals. CAUSE-PA SISNUS at 2.

In this proceeding, CAUSE-PA opposed the proposed rate increase. This Settlement will limit the amount of the agreed upon rate increase allocated to the residential class, which will help limit the increased bills for low-income residential customers who already struggle to afford service. In turn, limiting the residential rate increase will help limit increased terminations and uncollectible expenses resulting from the rate increase. As such, this term is just, reasonable, and in the public interest and should be approved by the Commission. CAUSE-PA SISNUS at 3.

H. Task-Force's Position

The Task Force submitted a Statement in Support of the Non-Unanimous Settlement on Revenue Allocation and Rate Design. Task Force SISNUS at 1. The Task Force supports the JPNUS as it believes it appropriately allocates the rate increase, that it is in compliance with the applicable laws and regulations and serves the public interest. Task Force SISNUS at 2. Although the Providers Task Force joins in the settlement of all issues set forth in the Joint Petition for Non-Unanimous Settlement Regarding Revenue Allocation and Rate Design, its testimony did not address revenue allocation and only addressed rate design as it related to the fixed monthly residential customer charge. The parties have agreed in the Joint Petition for Partial Settlement filed in this case that the fixed monthly residential customer charge would not be increased. Task Force SISNUS at 1.

I. Objection to the Joint Petition for Non-Unanimous Settlement

In addition to the OSBA's objections to the JPNUS outlined above, Mr. Culbertson filed objections to the JPNUS. Mr. Culbertson argues the JPNUS does not satisfy the Commission's order in this rate case, and it does not satisfy the burdens of proof as required by

66 Pa.C.S. § 315. Culbertson RB at 2. Mr. Culbertson contends there is an appearance of impropriety and lack of due diligence to find out what the Commission wanted to find out due to the settlement. Culbertson RB at 4, 9, Culbertson Objections at 4-11. Additionally, Mr. Culbertson asserts settlement talks have occurred in secret, with others, and agreements have been reached without his participation. Culbertson RB at 6-7. Mr. Culbertson also questions how he is provided adequate participation when he is not privy to the settlement terms and positions of parties. Culbertson RB at 7. Mr. Culbertson asserts 66 Pa. Code § 335 requires transparency in settlement talks, and there is nothing in the Public Utility Code that permits non-disclosure of a monopoly organization's business operations. Culbertson RB at 8. Mr. Culbertson questions how anyone would know what is reasonable and just if the settlement and reasons for the settlement are not disclosed. Culbertson RB at 9.

J. Recommendation

We recommend that the Commission approve the JPNUS without modification because it reflects a "black box" settlement in the public interest supported by substantial evidence. We disagree with the OSBA that the Commission's *Columbia Gas February 2021 Order* necessitates rejection of the JPNUS because it does not appropriately reflect use of the P&A methodology. The Commission's *Columbia Gas February 2021 Order* was in the context of full litigation of issues related to rate allocation and rate design. Therefore, the *Columbia Gas February 2021 Order* is not fully instructive on what must be done in the context of a non-unanimous settlement on revenue allocation and rate design.

Instead, the Commission encourages settlements, even in non-unanimous situations.[235] The standards for approving the terms of non-unanimous settlements are the same as those for deciding a fully contested case, *i.e.,* the parties to the non-unanimous settlement must demonstrate that the proposed settlement is supported by substantial evidence and that the

[235] *Pike County; City of Bethlehem Water; Pennsylvania-American Water Co*.

rates agreed to are just and reasonable, in the public interest, and in conformity with the Commission's orders and regulations.[236]

We find that the JPNUS meets the standard of approving a non-unanimous settlement. The parties to the JPNUS have demonstrated that the revenue allocation agreed to in the JPNUS falls within the range of the possible outcomes had revenue allocation been fully litigated.[237] Therefore, the JPNUS is supported by substantial evidence and is in the public interest in that it is within the range of possible outcomes argued by the parties and is supported by their respective experts' testimony.[238] We also disagree with the OSBA that approval of the JPNUS will encourage assignment of disproportionately large rate increases to unrepresented classes. The OCA, the OSBA, and I&E have all fully participated in this proceeding, and the Commission has previously found that, arguably, active participation by these three entities alone constitutes representation of the entire public whose welfare is to be protected.[239]

Also relevant to the Commission's approval of a non-unanimous settlement is the due process afforded to non-settling parties, such as whether non-settling parties were provided an opportunity to object to the settlement and to present their positions on the issues, and the range of interests represented in the non-unanimous settlement.[240] In this case, the non-settling parties to the Joint Petition for Non-Unanimous Settlement were given an opportunity to first submit briefs on the issues related to revenue allocation and rate design. In addition, the Non-Unanimous Settlement was served on all parties to the proceeding, and we established procedures for filing comments in opposition thereto. The OSBA and Mr. Culbertson presented their positions in briefing and comments to the JPNUS, and therefore have been provided due process to present their positions and object to the JPNUS.

---

236 *See* 66 Pa C.S. § 1301; *Pike County; City of Bethlehem Water; Pennsylvania-American Water Co*.

237 OCA SISNUS at 6 at Table; PSU MB at 10 at Table; PSU MB at 16 at Table.

238 *See Pike County* at 36.

239 *UGI Utilities* at 37-38.

240 *City of Bethlehem Water*.

Similarly, we find no merit in Mr. Culbertson's assertions that the JPNUS has been improperly proposed. As we stated above, the Commission favors settlements and historically has approved of the use of "black box" settlements. Contrary to Mr. Culbertson's assertions, the terms of the Non-Unanimous Settlement have been disclosed in the JPNUS, the reasons for the settling parties support have been disclosed, both in briefs and the parties' statements in support, and Mr. Culbertson has had the opportunity to express his position regarding the JPNUS. We note that the Commission rejected similar claims by Mr. Culbertson in Columbia's last base rate proceeding regarding the alleged impropriety of "black box" settlements. *See Columbia Gas December 2021 Order* at 36-44.

As to the other non-settling parties, Mr. Serrano and Ms. Wile were each provided a copy of the Joint Petition for Non-Unanimous Settlement and offered an opportunity to comment or object to its terms. Neither Mr. Serrano nor Ms. Wilde responded. Inasmuch as their due process rights have been fully protected, their formal Complaints can be dismissed for lack of prosecution.[241]

For all of the foregoing reasons, we find the terms embodied in the Joint Petition for Non-Unanimous Settlement are both just and reasonable and its approval is in the public interest. Additionally, we find that the rates proposed in Appendix B to the Non-Unanimous Settlement are in the public interest and should be approved. We recommend the Commission approve the Non-Unanimous Settlement without modification.

XII. ISSUES RAISED BY COMPLAINANT RICHARD C. CULBERTSON

A. Mr. Culbertson's Position

In his Main Brief and Reply Briefs, Mr. Culbertson suggests Columbia's accelerated pipeline replacements are unreasonable and wasteful. Culbertson MB at 27; Culbertson RB at 15-22. Mr. Culbertson also essentially asserts that the established process for investigation into the reasonableness of Columbia's requested rate increase is flawed for various

[241] See, *Schneider*.

reasons, including: that the Commission does not fulfill the requirements of financial, performance and special audits; the participants and their experts in this rate case are not impartial auditors; that the ALJs and Complainants do not actually investigate; and that Columbia provided unreliably unaudited financials to participants in the rate case. Culbertson MB at 27-30; Culbertson RB at 5, 9-10, 15, 23. Mr. Culbertson also states that his Complaint has not been investigated, even though he has called for a special investigation into the rate case. Culbertson RB at 12-13. Additionally, Mr. Culbertson asserts that Columbia has not provided reasonable substantiation why its current rates are substantially higher than peer gas utilities. Culbertson MB at 30-32; Culbertson RB 10-11, 23. Mr. Culbertson seeks a variety of measures to provide relief, including, but not limited to, denying the proposed rate increase, and instituting an independent, third-party investigation to determine what portions of Columbia's rate bases are comprised of unreasonable costs or are not actual legitimate costs. Culbertson MB at 33-36; Culbertson RB at 23.

B. Columbia's Position

Columbia's Reply Brief responded to Mr. Culbertson's Main Brief. Columbia asserts that Mr. Culbertson made various broad and unsupported allegations regarding the Company's audits, rates, pipeline replacement, and safety. Columbia further asserts that Mr. Culbertson failed to provide substantial and legally credible evidence, or any evidence whatsoever, to support any of his claims. Therefore, Columbia concludes, his claims should be rejected, his Complaint should be dismissed in its entirety and with prejudice, and his requested relief should be denied. Columbia RB at 2.

Columbia asserts Mr. Culbertson has presented no evidence in support of his claim that proper audits have not been conducted. Instead, these claims are based on his own mere speculation. Testimony consisting of guesses, conjecture, or speculation cannot prove a party's claims.[242] Columbia RB at 10.

[242] *Cuthbert v. City of Phila.*, 209 A.2d 261 (Pa. 1965); *B & K Inc. v. Pa. Dep't of Highways*, 159 A.2d 206 (Pa. 1960).

Mr. Culbertson alleges that the information submitted by Columbia in this rate case is not reliable because proper audits have not been conducted. Columbia RB at 10 (citing Culbertson MB at 30). Columbia asserts Mr. Culbertson fails to recognize that Columbia is subject to regular audits by the Commission, which are publicly available.[243] Columbia RB at 11. Columbia states Mr. Culbertson also fails to acknowledge that the Company undertakes internal audits on a routine basis.[244] Columbia RB at 10. Moreover, Columbia asserts it provided all material required to be submitted in support of a general base rate in accordance with the Commission's regulations at 52 Pa. Code § 53.53, which requires the submission of detailed materials covering all aspects of Columbia's operations.[245] Columbia RB at 10-11. Columbia states there is no basis for Mr. Culbertson's claims regarding insufficient auditing or lack of sufficient information upon which to base a finding of just and reasonable rates. Columbia RB at 11.

Mr. Culbertson references the GAO [Government Accountability Office] Yellow Book and the Pennsylvania Management Directives as support for his arguments regarding audits. Columbia RB at 11 (citing Culbertson MB at 32-33). Columbia contends there is no requirement in the Public Utility Code or the Commission's regulations and orders that Columbia use the GAO Yellow Book or Pennsylvania Management Directives. The GAO Yellow Book and Pennsylvania Management Directives apply to government entities and Commonwealth agencies. Columbia is not a government entity or Commonwealth agency. Therefore, Columbia states, Mr. Culbertson contentions regarding the GAO Yellow Book and the Pennsylvania Management Directives are irrelevant to this base rate case. Columbia RB at 11.

With respect to Mr. Culbertson's complaints pertaining to the manner in which the Commission conducts audits, Columbia avers it has no control or authority over the Commission's process for auditing utilities. Pursuant to Section 516(a) of the Public Utility

---

243 Management and Operations Audit of Columbia Gas of Pennsylvania, Inc., Docket No. D-2019-3011582 (Issued June 2020, available at https://www.puc.pa.gov/pcdocs/1670369.pdf).

244 Columbia Exh. 13, Sch. 4.

245 52 Pa. Code § 53.53.

Code, 66 Pa.C.S. § 516(a), the Commission establishes the procedures for audits of the operations of utilities and has established an entire bureau dedicated to undertaking financial and management audits of all utilities under its jurisdiction. Columbia argues Mr. Culbertson's criticisms of the Commission's auditing process are irrelevant to this base rate proceeding involving Columbia. Moreover, any issues pertaining to Commission processes that would affect multiple stakeholders, such as the manner in which the Commission conducts audits, should be dealt with in a generic proceeding, and not in a single utility's base rate case. Columbia RB at 11.

Columbia concludes by stating Mr. Culbertson's claims regrading audits are not supported by substantial evidence and should be rejected. Columbia RB at 11.

Mr. Culbertson also claims Columbia's rates are unreasonable because they are higher than the rates of other utilities in Pennsylvania as provided in the Commission's rate comparison report. Columbia RB at 12 (citing Culbertson MB at 4, 28). Columbia asserts Mr. Culbertson's argument regarding the rates of other utilities is irrelevant to Columbia's base rates and improperly relies on material that is not part of the record in this case. Therefore, the ALJs and the Commissions should reject this argument. Columbia RB at 12.

Columbia contends it is well-established that parties cannot present new evidence at the briefing stage that is not part of the evidentiary record.[246] Columbia RB at 12. The rate comparison report that provides the rates of Columbia and other Pennsylvania utilities was not introduced or admitted to the evidentiary record in this case. Therefore, Columbia argues the references to this material on pages 4 and 28 of Mr. Culbertson's Main Brief should be stricken from Mr. Culbertson's Main Brief, and the ALJs and the Commission should not consider this argument. Columbia RB at 12.

[246] *Myers v. PPL Elec. Utils. Corp.*, Docket No. C-2017-2620710, 2019 Pa. PUC LEXIS 261 (Opinion and Order entered Aug. 29, 2019) (rejecting extra-record evidence that was presented for the first time at the briefing stage).

Not only are the rates of other utilities in Pennsylvania not part of the record evidence in this proceeding, the rates of other utilities are also irrelevant to Columbia's base rate case and do not provide a valid basis to conclude that Columbia's rates are unreasonable. There are many reasons why rates vary between utilities, including the geographic location and size of the utility's service territory, the number and types of customers served, and the location/density of those customers within the utility's service territory, as well as many other factors. Aside from his broad allegation that Columbia's rates should not be higher than other Pennsylvania utilities, Columbia avers Mr. Culbertson has failed to provide any credible evidence to support his claims regarding the reasonableness of Columbia's rates. Such bald assertions, personal opinions, or perceptions do not constitute evidence and do not support Mr. Culbertson's theory that the rates produced by this rate case will not be just and reasonable.[247] In contrast, Columbia provided substantial evidence supporting its proposed rates.[248] Mr. Culbertson did not challenge this evidence. Columbia RB at 12-13.

Columbia concludes by stating Mr. Culbertson's claim that Columbia's rates are not just and reasonable as compared to other Pennsylvania utilities is not supported by the record evidence and should be rejected. Columbia RB at 13.

Mr. Culbertson claims that Columbia's accelerated pipeline replacement is wasteful and unnecessary. Columbia RB at 13 (citing Culbertson MB at 4-5, 23-27). Mr. Culbertson also claims that Columbia should not be permitted to recover costs associated with accelerated pipeline replacement. Columbia RB at 13 (citing Culbertson MB at 30). Columbia asserts Mr. Culbertson provides no support for his opinion, which is contrary to the substantial record evidence required in this proceeding. Columbia RB at 13.

Columbia states that, initially, it is important to place into context the term "accelerated pipeline replacement." Columbia RB at 13. The statutory provisions authorizing a

---

[247] *Mid-Atlantic Power Supply Ass'n v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196 (Pa. Cmwlth. 2000) (citation omitted).

[248] March 18, 2022 Base Rate Filing, including Columbia Exhibits 1-17, 101-117, 400-414, and Columbia Statements 1-16.

utility to establish a Distribution System Improvement Charge ("DSIC") require that a utility first file and have approved a Long-term Infrastructure Improvement Plan ("LTIIP").[249] One of the requirements for an LTIIP is that the utility must show the "manner in which the replacement of aging infrastructure will be accelerated[.]"[250] Columbia's LTIIP shows that the Company is replacing mains, service and meters at a faster pace than previously.[251] Pipe replacements are being made to remove at-risk pipe that is nearing the end of its useful life.[252] Columbia RB at 13-14. Therefore, Columbia argues, Mr. Culbertson's efforts to suggest that Columbia is providing inconsistent explanations for main replacements are wrong and should be disregarded. Columbia RB at 14 (citing Culbertson MB at 25-27).

Columbia contends that the record evidence demonstrates that Columbia's accelerated pipeline replacement efforts are necessary to maintain a safe and reliable distribution system. Columbia RB at 14. Columbia witness Anstead testified that since the inception of Columbia's accelerated infrastructure replacement program, Columbia has significantly reduced its inventory of bare steel pipe and has seen a significant reduction in leaks as a result. Columbia RB at 14.[253] In particular, Grade 2 leaks have been significantly reduced, thereby increasing the safety of Columbia's customers. Columbia RB at 14.[254] Mr. Culbertson did not challenge Columbia's evidence or present any evidence in response. Columbia RB at 14.

Columbia states that Mr. Culbertson's opinion is also contrary to the recommendations of I&E's pipeline safety witness, Mr. Merritt, who recommended that Columbia should increase its pipeline replacement efforts and focus on increasing its yearly

---

249 66 Pa.C.S. § 1353.

250 66 Pa.C.S. § 1352(a)(6).

251 *Petition of Columbia Gas of Pennsylvania, Inc. for Approval of a Major Modification to its Existing Long-Term Infrastructure Improvement Plan and Approval of its Second Long-Term Infrastructure Improvement Plan*, Docket No. P-2017-2602917 (Opinion and Order entered Sept. 21, 2017).

252 Columbia St. No. 1, p. 14.

253 Columbia St. No. 14, p. 41.

254 Columbia St. No. 14, p. 32.

replacement rate to reduce risks to the Company's systems.[255] Columbia's accelerated pipeline replacement program is also supported by its Commission-approved LTIIP, which provides replacement goals for the Company's cast iron and bare steel pipe through 2022.[256] Columbia RB at 14.

Columbia concludes that Mr. Culbertson's opinion that accelerated pipeline replacement is unnecessary and wasteful is contrary to the substantial record evidence in this proceeding and should be rejected. Columbia RB at 14.

Mr. Culbertson also expressed safety concerns regarding the installation of curb valves and the ability to shut off gas in case of an emergency. Columbia RB at 15 (citing Culbertson MB at 36).[257] However, Columbia asserts Mr. Culbertson did not present any evidence that safety issues exist on Columbia's system. Columbia RB at 15. To the contrary, Columbia witness Kempic explained that Columbia's safety standards require that each service line have a shut off valve outside the home, and the safety standards specify when a curb valve should be used.[258] Mr. Kempic also explained that a meter valve enables quicker shutoff during priority situations since it is located above ground and next to the meter, which makes it easy to locate for a quick resolution. A curb valve, on the other hand, is not in plain sight or near the meter, and often requires personnel to be called out to locate it.[259] Columbia RB at 15.

I&E witness Merritt agreed with Columbia witness Kempic and stated as follows with respect to Columbia's practice of installing curb valves:

---

255 I&E St. 4, p. 21.

256 *Petition of Columbia Gas of Pennsylvania, Inc. for Approval of a Major Modification to its Existing Long-Term Infrastructure Improvement Plan and Approval of its Second Long-Term Infrastructure Improvement Plan*, Docket No. P-2017-2602917 (Opinion and Order entered Sept. 21, 2017).

257 A question regarding the use of curb valves arose during the public input hearing. (Tr., p. 87).

258 Columbia St. No. 1-R, p. 18.

259 Columbia St. No. 1-R, pp. 18-19.

Q. DO YOU AGREE THAT COLUMBIA'S PRACTICE COMPLIES WITH THE REGULATIONS?

A. Yes. According to § 192.365, "each service line must have a shutoff valve in a readily accessible location that, if feasible, is outside of the building." § 192.365 also states, "Each service line valve must be installed upstream of the regulator or if there is no regulator, upstream of the meter." § 192.365 does require a "covered durable curb box or standpipe" for each underground service line valve, but it does not specify that an operator must install the upstream shutoff valve at the curb. It is a common practice for operators to install an upstream valve at the riser and not at the curb. This practice is satisfactory according to § 192.365.[260]

Mr. Culbertson did not present any evidence in response to the evidence of Columbia and I&E on this issue. Columbia RB at 16.

Columbia concludes by stating that there is no record evidence that Columbia's distribution system is unsafe or that Columbia has acted in an unsafe manner. Columbia RB at 16. Therefore, Mr. Culbertson's arguments regarding safety concerns should be rejected.

C. I&E's Position

In Main Brief, Mr. Culbertson's proposed Ordering paragraphs included the following: "The Commission's Bureau of Investigation and Enforcement is hereby ordered to submit like plans to accomplish Orders 1. and 4. that are acceptable to the Commission within 60 days." I&E RB at 4 (citing Culbertson MB at 40). According to Mr. Culbertson's Main Brief, "Orders 1. and 4." are requesting I&E to submit plans to investigate the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Columbia Gas of Pennsylvania, Inc.'s proposed Supplement No. 337 to Tariff Gas – Pa. P.U.C. No. 9. I&E RB at 4 (citing Culbertson MB at 39). However, above "Orders 1. and 4." Mr. Culbertson identifies the docket number for the 2020 Columbia base rate proceeding. I&E RB at 4.

260 I&E St. 4-SR, pp. 10-11.

I&E submits that it completed its full investigation in the 2020 Columbia base rate case and that proceeding before the Commission has been completed. Moreover, if Mr. Culbertson is referring to the instant proceeding, I&E notes that it has been an active participant exhibited by the testimony, discovery, and pleadings served and would submit that its investigation into this base rate case has been demonstrated throughout this docket. I&E RB at 4.

D. Recommendation

We recommend that Mr. Culbertson's Formal Complaint be denied. Mr. Culbertson has asserted that Columbia's base rate filing is deficient because it has not been the subject of proper audits or investigation, reflects rates that are higher than other NGDCs, recovers costs for a wasteful and unnecessary accelerated pipeline replacement program, and fails to recognize safety concerns. Although the burden of proof to establish the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility, we find that the rate filing, as adjusted by the proposed Partial Settlement and Non-Unanimous Settlement, is just and reasonable and supported by substantial evidence. To the contrary, we do not find that Mr. Culbertson has adequately presented evidence or analysis demonstrating that his recommendations or adjustments to Columbia's filing are warranted.

Regarding Mr. Culbertson's general assertion that Columbia's base rate filing has not been properly investigated and reflects unsubstantiated rates, Columbia's filing has been subject to an extensive and detailed investigation. Specifically, Columbia provided material supporting its claim in accordance with the Commission's regulations and filing requirements for a proposed general rate increase in excess of $1 million. 52 Pa. Code § 53.53. *See* Columbia Statement Nos. 1-16; Columbia Exhibit Nos. 1-17, 101-117 and 400-414; Columbia Standard Data Responses COS 1-21, ROR 1-23 and RR 1-55. Multiple expert witnesses for nine other active parties have reviewed Columbia's filing information and the testimony of Columbia's witnesses and have submitted their own testimony analyzing Columbia's case. Four public input hearings and a technical evidentiary hearing were held to hear public opinion and to examine

Columbia's case. A thorough investigation of Columbia's requested rate increase has occurred, and a comprehensive evidentiary record exists.

Mr. Culbertson raised similar concerns in Columbia's last base rate proceeding at Docket No. R-2021-3024296.[261] We note that in that proceeding, the Commission, under similar circumstances, found that the record demonstrated Columbia's filing had been subject to an extensive and detailed investigation similar to other recent Section 1308(d) general rate increases to ensure a public utility's rates are just and reasonable.[262] We believe this proceeding has been subject to the same level of scrutiny as Columbia's last base rate filing, and find no basis in Mr. Culbertson's claim that the investigation into this base rate proceeding has been deficient.

Mr. Culbertson also asserts that Columbia's rates are unreasonable because they are higher than the rates of other utilities in Pennsylvania as provided in the Commission's rate comparison report.[263] We note that Mr. Culbertson submitted no record evidence in this proceeding to support his position. We agree with Columbia that the rate comparison report referenced by Mr. Culbertson is not part of the record, and should not be relied upon by us. Additionally, as we have stated above, the Joint Petitioners have presented substantial evidence that the settlements reflect rates that are just and reasonable. Mr. Culbertson has not presented sufficient evidence to rebut that finding. Although the utility seeking a rate increase has the ultimate burden of proof, a party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment.[264]

---

[261] *See Columbia Gas December 2021 Order* at 25-27. Mr. Culbertson's formal Complaint at that proceeding was docketed at C-2021-3026054.

[262] *Id.* at 27-30.

[263] Culbertson MB at 4, 28.

[264] *See, e.g., Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, Docket No. R-00891364, 1990 Pa. PUC LEXIS 155 (Opinion and Order entered May 16, 1990); *Pa. Pub. Util. Comm'n v. Breezewood Tel. Co.*, Docket No. R-00901666, 1991 Pa. PUC LEXIS 45 (Opinion and Order entered Jan. 31, 1991).

Mr. Culbertson also asserts Columbia's accelerated pipeline replacement program is wasteful and unnecessary, and that Columbia fails to recognize safety concerns. We find that Columbia has met its burden of proof in supporting its rate filing as relates to both its accelerated pipeline replacement program and safety concerns as raised by Mr. Culbertson. Both Columbia and I&E presented testimony as relates to the appropriateness of Columbia's accelerated pipeline replacement program.[265] Columbia and I&E also presented evidence as relates to the adequacy of Columbia's curb valves and ability to shut off gas in case of an emergency.[266] To the contrary, Mr. Culbertson submitted no record evidence to support his claims critiquing Columbia's accelerated main replacement program or the safety of Columbia's distribution system.

For the aforementioned reasons, we will recommend that Mr. Culbertson's Complaint be denied in its entirety.

XIII. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. §§ 501, *et seq*.; 66 Pa.C.S. § 1308(d).

2. Rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301 and 1304.

3. A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. 66 Pa.C.S. § 315(a); *Pa. Pub. Util. Comm'n* v. *Aqua Pa., Inc.*, Docket No. R-00038805, 236 PUR 4th 218, 2004 Pa. PUC LEXIS 39 (Pa.P.U.C. Aug. 5, 2004).

---

[265] Columbia St. No. 1, p. 14; Columbia St. No. 14, p. 32; I&E St. 4, p. 21.

[266] Columbia St. No. 1-R, pp. 18-19; I&E St. 4-SR, pp. 10-11.

4. A public utility, in proving that its proposed rates are just and reasonable, does not have the burden to defend affirmatively claims made in its filing that no other party has questioned. *Allegheny Ctr. Assocs. v. Pa. Pub. Util. Comm'n*, 570 A.2d 149 (Pa. Cmwlth. 1990).

5. A party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *See*, e.g., *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, Docket No. R-00891364, 1990 Pa. PUC LEXIS 155 (Opinion and Order entered May 16, 1990); *Pa. Pub. Util. Comm'n v. Breezewood Tel. Co.*, Docket No. R-00901666, 1991 Pa. PUC LEXIS 45 (Opinion and Order entered Jan. 31, 1991).

6. A litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

7. Any finding of fact necessary to support an adjudication of the Commission must be based on substantial evidence. *Met-Ed Indus. Users Group v. Pa. Pub. Util. Comm'n*, 960 A.2d 189 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704).

8. Settlements must be in the public interest. *Pa. Pub. Util. Comm'n v. Windstream Pa., LLC*, Docket No. M-2012-2227108, 2012 Pa. PUC LEXIS 1535 (Opinion and Order entered Sept. 27, 2012); *Pa. Pub. Util. Comm'n v. C.S. Water & Sewer Assoc.*, Docket No. R-00881147, 74 Pa. PUC 767 (Opinion and Order entered July 22, 1991).

9. The Commission's policy permits parties to enter "partial" or "non-unanimous" settlements. 52 Pa. Code §§ 69.401, 69.406, 5.232.

10. As with full settlements, the terms and conditions of partial settlements must be reasonable and in the public interest. *Pa. Pub. Util. Comm'n v. City of Bethlehem – Water Dep't*, Docket No. R-2020-3020256, 2021 Pa. PUC LEXIS 116 (Apr. 15, 2021).

11. The Commission has approved non-unanimous settlements as being just and reasonable and in the public interest and has not rejected or disfavored settlements because they are non-unanimous. *Pa. Pub. Util. Comm'n v. City of Bethlehem – Water Dep't*, Docket No. R-2020-3020256, 2021 Pa. PUC LEXIS 116 (April 15, 2021)*; Pa. Pub. Util. Comm'n v. Pike Cnty. Light & Power Co. – Elec.,* Docket No. R-2020-3022135 (Recommended Decision May 5, 2021; Opinion and Order entered June 23, 2021); *Pa. Pub. Util. Comm'n v. Pa.-Am. Water Co.*, Docket No. R-2020-3019369 (Opinion and Order entered Feb. 25, 2021).

12. The standards for approving the terms of non-unanimous settlements are the same as those for deciding a fully contested case, *i.e.* the parties to the non-unanimous settlement must demonstrate that the proposed settlement is supported by substantial evidence and that the rates agreed to are just and reasonable and in conformity with the Commission's orders and regulations. 66 Pa C.S. § 1301;)*; Pa. Pub. Util. Comm'n v. Pike Cnty. Light & Power Co. – Elec.,* Docket No. R-2020-3022135 (Recommended Decision May 5, 2021; Order entered June 23, 2021).

13. When evaluating a non-unanimous settlement, the Commission will also consider the due process afforded to non-settling parties, such as whether the non-settling parties were provided an opportunity to object to the settlement and to present their positions on the issues, and the range of interests represented in the non-unanimous settlement. *Pa. Pub. Util. Comm'n v. City of Bethlehem – Water Dep't*, 2021 Pa. PUC LEXIS 116 (Apr. 15, 2021).

14. The Joint Petition for Partial Settlement is in the public interest and is supported by substantial evidence.

15. The Joint Petition for Non-Unanimous Settlement is in the public interest and is supported by substantial evidence.

16. Complainant Richard C. Culbertson has failed to present evidence or analysis demonstrating the reasonableness of his adjustments and recommendations. *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.*, Docket No. R-00891364, 1990 Pa. PUC LEXIS 155 (Opinion

and Order entered May 16, 1990); *Pa. Pub. Util. Comm'n v. Breezewood Tel. Co.*, Docket No. R-00901666, 1991 Pa. PUC LEXIS 45 (Opinion and Order entered Jan. 31, 1991).

XIV. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. The Joint Petition for Partial Settlement, filed on September 2, 2022, by Columbia Gas of Pennsylvania, Inc., the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Columbia Industrial Intervenors, Retail Energy Supply Association, Shipley Choice, LLC and NRG Energy, Inc., the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, the Pennsylvania Weatherization Providers Task Force, and the Pennsylvania State University, be approved in its entirety and without modification.

2. The Joint Petition for Non-Unanimous Settlement, filed on September 2, 2022, by Columbia Gas of Pennsylvania, Inc., the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Columbia Industrial Intervenors, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, the Pennsylvania Weatherization Providers Task Force, and the Pennsylvania State University, be approved in its entirety and without modification.

3. That Columbia Gas of Pennsylvania, Inc., shall be permitted to file a tariff supplement incorporating the terms of the Joint Petition for Partial Settlement, the Joint Petition for Non-Unanimous Settlement, and changes to rates, rules and regulations as set forth in Appendix A of the Joint Petition for Partial Settlement and Appendix B to the Joint Petition for Non-Unanimous Settlement, to become effective upon at least one day's notice after entry of the Commission's Order approving the Joint Petition for Partial Settlement and Joint Petition for

Non-Unanimous Settlement, for service rendered on and after December 17, 2022, which tariff supplement increases Columbia Gas of Pennsylvania, Inc.'s rates so as to permit an annual increase in base rate operating revenues of not more than $44,500,000.

4. That the following Complaints consolidated with the Commission's investigation at Docket No. R-2022-3031211 be dismissed: Office of Small Business Advocate at Docket No. C-2022-3031632; Jose A. Serrano at Docket No. C-2022-3031821; Constance Wile at Docket No. C-2022-3031749; and Richard C. Culbertson at Docket No. C-2022-3032203.

5. That the following Complaints consolidated with the Commission's investigation at Docket No. R-2022-3031211 be deemed satisfied: Office of Consumer Advocate at Docket No. C-2022-3031767; the Columbia Industrial Intervenors at Docket No. C-2022-3032178; and the Pennsylvania State University at Docket No. C-2022-3031957.

6. That the Commission's investigation at Docket No. R-2022-3031211 and the formal Complaints at Docket Nos. C-2022-3031632, C-2022-3031821, C-2022-3031749, C-2022-3032203, C-2022-3031767, C-2022-3032178, and C-2022-3031957 be marked closed.

Date: September 30, 2022

/s/
Christopher P. Pell
Deputy Chief Administrative Law Judge

/s/
John Coogan
Administrative Law Judge