COMMONWEALTH OF PENNSYLVANIA

September 21, 2023

E-FILED

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

Re: Columbia Water Company Supplement No. 121 To Tariff – Water Pa. P.U.C. No. 7 / Docket No. R-2023-3040258

Dear Secretary Chiavetta:

Enclosed please find the Reply Brief, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Steven C. Gray

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney ID No. 77538

Enclosures
cc: Brian Kalcic
Parties of Record

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Columbia Water Company 2023 General Base Rate Increase Filing - Supplement No. 121 To Tariff – Water Pa. P.U.C. No. 7	: : : : :	**Docket No. R-2023-3040258**

REPLY BRIEF ON BEHALF OF THE OFFICE OF SMALL BUSINESS ADVOCATE

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney ID No. 77538

For: NazAarah Sabree
Small Business Advocate

Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
(717) 783-2525
(717) 783-2831 (fax)

Date: September 21, 2023

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I. Introduction

On April 28, 2023, Columbia Water Company ("Columbia Water" or the "Company") filed Supplement No. 121 to Tariff Water – Pa. P.U.C. No. 7 ("Supplement No. 121"). Supplement No. 121 proposed rate increases for all customers in the Columbia and Marietta Rate Division in order to produce an increase in the Company's total annual operating revenues for water service of approximately $999,900.

On May 9, 2023, the Office of Small Business Advocate ("OSBA") filed its Complaint in this proceeding.

On June 15, 2023, Administrative Law Judges ("ALJs") Mary D. Long and Charece Z. Collins issued their Prehearing Conference Order.

On June 23, 2023, a Prehearing Conference was held before ALJs Long and Collins.

On June 26, 2023, ALJs Long and Collins issued their Prehearing Order.

On August 4, 2023, the OSBA served the Direct Testimony of Brian Kalcic.

On August 14, 2023, the OSBA served the Rebuttal Testimony of Mr. Kalcic.

On August 22, 2023, the OSBA served the Surrebuttal Testimony of Mr. Kalcic.

On August 28, 2023, an Evidentiary Hearing was held before ALJs Long and Collins.

On August 30, 2023, ALJs Long and Collins issued their Interim Order on Briefs and Closing of the Record.

On September 7, 2023, ALJs Long and Collins issued their Interim Order Admitting OCA Statement 3SR – Errata.

On September 12, 2023, the OSBA filed its Main Brief.

The OSBA submits this Reply Brief in according with the procedural schedule set forth in the ALJ's June 26th Prehearing Order.

II. Summary of Argument

No party sponsored a complete cost of service study in this proceeding. As a result, there are no cost-based general metered service ("GMS") class revenue targets in record evidence in this proceeding.

Columbia Water's proposed GMS rate design and class revenue allocation is without cost foundation, resting solely upon the best guess of its expert witness.

The attempt by the Office of Consumer Advocate ("OCA") to support the Company's GMS rate design and revenue allocation by citing to two unrelated cases is ill conceived, and would set an unworkable precedent.

Since there is no record evidence upon which to assign cost-based increases to Columbia Water's residential, commercial, industrial, and public authority classes in this proceeding, the only just and reasonable solution is to assign uniform increases to the Company's Columbia Division GMS customer classes at the conclusion of this case.

III. Rate Base

The OSBA will not be briefing Section III, Rate Base. This includes sub-sections A through F.

IV. Revenues

The OSBA will not be briefing Section IV, Revenues.

V. Expenses

The OSBA will not be briefing Section V, Expenses.

VI. Taxes

The OSBA will not be briefing Section VI, Taxes.

VII. Rate of Return

The OSBA will not be briefing Section VII, Rate of Return.

VIII. Miscellaneous Issues

The OSBA will not be briefing Section VIII, Miscellaneous Issues.

IX. Rate Structure

A. Cost of Service

1. Columbia Water

In its Main Brief, Columbia Water quotes extensively from Mr. Fox's direct testimony regarding the American Water Works Association's ("AWWA") implementation of the Base-Extra Capacity ("BEC") cost methodology, and states the Company "has utilized a generally accepted COSS method to determine the cost to serve its customers." Columbia Water Main Brief, at 96-97. In doing so, Columbia Water implies that Mr. Fox used a cost-of-service methodology accepted by the AWWA.

In actuality, Mr. Fox did not employ the AWWA's complete BEC cost methodology since he did not execute the BEC's third step, which is, to quote Mr. Fox in the Company's Main Brief: "Once the costs have been allocated to the functional categories, they are assigned to the various customer classes based upon each customer class's usage characteristics and their associated responsibility for those costs." Columbia Water Main Brief, at 97; OSBA Main Brief, at 6-7. Furthermore, Mr. Kalcic testified that the AWWA rate manual does *not* support Mr. Fox's actual method, which is to attempt to allocate classified costs to GMS rate blocks. As OCA witness Mr. Mierzwa confirmed on cross examination "The AWWA manual doesn't address allocating costs to rate blocks." Transcript, at 78, lines 1-2.

As explained in the OSBA's Main Brief, Mr. Kalcic appropriately classified 15.7% of Columbia Water's Transmission and Distribution ("T&D") Operation and Maintenance ("O&M") expense as customer related, based on the ratio of meters and services plant investment to total T&D plant in service. OSBA Main Brief, at 7. Columbia Water argues that the OSBA's classification of such expenses is "not persuasive" since "the value of assets between these two categories has no bearing on the annual operating expenses incurred by the Company to provide transmission and distribution services." Columbia Main Brief, at 103.

Rather than rely on Mr. Fox's professional opinion that a 30% classification of such expenses as customer related is reasonable, Mr. Kalcic explained that it is important that the rate analyst provide some empirical basis or support for the manner in which T&D expenses are classified. Absent a detailed breakdown of T&D O&M expenses, Mr. Kalcic testified that the best empirical approach for classifying the Company's T&D expenses is to classify 15.7% of such costs as customer related, based on the ratio of the Company's total investment in meters and services to the Company's total T&D plant investment. OSBA Statement No. 1-S, at 3.

2. OCA

Like the Company, the OCA erroneously implies that Mr. Fox's allocation of classified costs to GMS rate blocks is consistent with the AWWA rate manual. The OCA states that Mr. Mierzwa found that the factors applied by Mr. Fox "were not unreasonable, when compared with the AWWA Manual typical maximum hour factors." OCA Main Brief, at 61. However, Mr. Kalcic testified that the AWWA manual does not address Mr. Fox's methods. Rather, the maximum hour capacity factors discussed in the manual, and referenced by Mr. Mierzwa, are in fact used for an entirely different purpose within the BEC cost methodology – namely the allocation of classified costs to rate classes, not GMS rate blocks. Transcript, page 89, line 21 to page 90, line 7. In other words, it is not valid to compare Mr. Fox's "factors" to those discussed in AWWA manual. Nor is it valid to conclude that Mr. Fox's factors are supported by the AWWA manual.

B. Revenue Allocation

1. Columbia Water

In its Main Brief, Columbia Water explains how its witness, Mr. Fox, performed the allocation step of the BEC cost of service study, as follows:

> Lastly, Company witness Fox calculated consumption-based charges by allocating revenue requirements to base (average use), maximum day, and peak hour demands. Once the costs were allocated to these components, they were distributed to each ***consumption block's*** proportionate share of each component. Specifically, consumption falling into consumption blocks which produce more peak hour demands, were distributed a greater percentage of the peak hour costs. Consumption based rates were then calculated based on the distributed costs and relative demand per consumption block.

Columbia Water Main Brief, at 100 (emphasis added) (footnotes omitted).

The Company admits that Mr. Fox attempted to assign classified max-day and max-hour costs to *GMS consumption rate blocks* (rather than GMS customer classes). As set forth in the OSBA's Main Brief, when Mr. Fox was asked to explain how he developed the relative factors used to assign costs to GMS rate tiers, he responded that his allocations "were simply assumptions for purposes of rate design to reasonably maintain the Company's existing (Columbia) volumetric rate structure," and that no other supporting documentation was available.[1]

[1] OSBA Statement No. 1, at 11-12.

Throughout this proceeding, including the Company's Main Brief, neither Columbia Water nor Mr. Fox have presented *any* cost basis for his proposed method of designing GMS volumetric charges. The only basis offered for the Company's GMS rate design (and its resulting class revenue allocation) is Mr. Fox's professional opinion that the factors he used to assign classified costs to GMS rate tiers are reasonable and "more accurately reflect the true cost of providing volumetric service to each rate tier."[2]

Columbia Water's revenue allocation is unjust, unreasonable, and violates the plain language of 66 Pa. C.S. Section 1304 (Discrimination in rates). There is no record evidence to support the Company's GMS rate design and revenue allocation. Instead, there is only the "professional opinion" of Mr. Fox that his preferred GMS rate design is reasonable, which is an insufficient basis to adopt any proffered revenue allocation, and must be rejected by the Commission.

2. OCA

In its Main Brief, the OCA repeats the argument of OCA witness Mr. Mierzwa that he "showed that CWC's proposed ratios are more in line with the ratios in effect for two other water utilities that do have class cost of service studies to support their rate design." OCA Main Brief, at 61. The OCA is referring to the recent Pennsylvania American Water Company ("PAWC") and The York Water Company ("York") rate cases.

As discussed in the OSBA Main Brief, the PAWC and York both cases involved water and wastewater service. Furthermore, the PAWC and York cases both involved Act 11, whereby PAWC and York were allowed to recover a portion of their awarded wastewater revenue requirement in water rates. OSBA Main Brief, at 10. Mr. Mierzwa, on cross examination,

[2] Columbia Water Statement No.3-R, at 11.

admitted that the PAWC and York GMS consumption rates could be quite different if the Act 11 wastewater subsidies were excluded from PAWC's and York's tariffed water rates.[3] Mr. Kalcic also testified that due to the recovery of Act 11-related wastewater costs in PAWC's and York's GMS volumetric charges, it was not possible to determine what the resulting GMS rate tier ratios cited by Mr. Mierzwa might be if the Act 11 subsidies were excluded. Transcription, page 90, line 9 to page 91, line 4.

Consequently, neither case provides any valid guidance for revenue allocation in this proceeding.

The OCA then argued, as follows:

> However, because there is no evidence to show that the *existing* differentials between the Tiers have any cost justification and because the existing differentials are significant,16 Mr. Fox's proposal to reduce their severity is reasonable.

OCA Main Brief, at 61 (emphasis in original) (footnote omitted). In effect, the OCA is admitting that there is no record evidence upon which a just and reasonable revenue allocation can be determined, so it is acceptable to use Mr. Fox's best guess to address what the OCA perceives as something "severe." This is exactly why the OSBA is concerned about using the "best guess" of any expert witness – there is no record evidence to support it, and the OCA's backing of the Company's position appears to be cherry-picking a solution that benefits residential customers.

The OSBA also submits there is one important distinction to be made regarding Columbia Water's *existing* GMS rate differentials that the OCA chooses to ignore. While the Company has not presented any evidence in support of either its existing or its proposed GMS rate design, the fact remains that the Commission previously approved Columbia Water's *existing* GMS rate structure in the Company's last base rate case at Docker No. R-2017-2598203.

[3] Transcript at page 86, lines 11-16.

Therefore, absent new evidence to the contrary, the Company's existing GMS rate structure must be deemed just and reasonable.

C. Tariff Structure: Rate Design and Scale Back

1. Columbia Water

Columbia Water's rate impact analysis is contained in Appendix B to its Main Brief. Appendix B at page 1 of 3 purportedly provides an average monthly bill comparison for each GMS customer class, by Division. However, as Mr. Kalcic stated in his direct and surrebuttal testimony, the Company's typical industrial bill impacts that were reported in Mr. Fox's Exhibit DF-9 (07/25 Errata) and Exhibit DF-9R (8/14 Rebuttal) are in error.[4] As discussed below, the very same error was perpetuated in Mr. Fox's Exhibit DF-9RJ (8/25 Rejoinder) and conveyed to Appendix B of the Company's Main Brief.

The "typical" industrial customer employed in the Company's bill impact analysis is assumed to consume 165,000 gallons per month through a 4" meter.[5] As shown in Table 1 below, such an industrial customer in the Columbia Division would be billed $769.50 at present rates and $896.00 at Columbia Water's rejoinder rates – not the $598.10 and $786.58 per month, respectively, shown in Appendix B, page 1, to the Company's Main Brief. Therefore, under the Company's proposed rate design and revenue allocation, the actual rate impact on a "typical" industrial customer in the Columbia Division would be a monthly increase of ($896.00 minus $769.50 or) $126.50 or 16.4%.

[4] *See* OSBA Statement No. 1, at 14, and OSBA Statement No. 1-S, at 10.

[5] *See* Columbia Water's Main Brief, at Appendix B page 1.

Table 1

Calculation of Typical Industrial Customer Monthly Bills,
at Present and Company's Rejoinder Rates
(Columbia Division)

Industrial Customer	*Present Rates*	*Columbia Rej.. Rates*
	(1)	(2)
1. Monthly Customer Charge, 4" meter	$268.15	$313.83
First 10 kGal of Usage at		
2. Present Rate of $7.20 / Kgal.	$72.00	
3. Proposed Rate of $7.22 / Kgal.		$72.22
Next 155 kGal of Usage at		
4. Present Rate of $2.77 / Kgal.	$429.35	
5. Proposed Rate of $3.29 / Kgal.		$509.95
6. Total Present Bill (lines 1+2+4)	$769.50	
7. Total Proposed Bill (lines 1+3+5)		$896.00

Columbia Water's Main Brief, Appendix B, page 2.

The error in the Company's reported industrial bill impact for the Marietta Division is related to the (erroneous) proposed bill of $786.58 shown in Appendix B at page 1 of 3. As shown in Table 1 *supra*, the actual industrial monthly bill under the Company's rejoinder rates would be the same $896.00 for the Marietta Division customer, due to rate consolidation. As a result, the actual rate impact on a "typical" industrial customer in the Marietta Division would be a monthly increase of ($896.00 minus $$544.42 or) $351.58 or 64.6% – not the monthly increase of $242.16 or 44.48% shown in Appendix B at page 1 of 3.

2. OCA

In its Main Brief, the OCA compares its proposed GMS customer charges to the alternative proposals advanced by other parties, and argues for the adoption of Mr. Mierzwa's primary GMS customer charge recommendation. OCA Main Brief, at 63-68. The OSBA does not take a position with respect to the alternative OCA (or I&E) customer charge proposals, as long as GMS usage charges are adjusted to implement approximately uniform increases to the Company's Columbia Division GMS classes at the conclusion of this case. OSBA Statement No. 1-R, at 1.

The OCA's class rate impact analysis under its rate design and class revenue allocation proposals appears ***for the first time*** in Appendix B to the OCA's Main Brief.[6] Table A in Appendix B provides the OCA's proposed class revenue allocation, by Division, under the OCA's (i) primary customer charge recommendation and (ii) secondary customer charge recommendation. Table A also illustrates, again ***for the first time***, the OCA's proposed scale back methodology using the OCA's recommended revenue requirement level.

Table 2 below illustrates the impact of the OCA's proposed rate design and scale back approach on GMS class increases in the Columbia Division, under the OCA's primary customer charge recommendation.

[6] OCA Witness Mierzwa declined to provide any type of class rate impact analysis or even identify the OCA's alternative class revenue allocation proposals in OCA Statement 3, OCA Statement 3-R, or OCA Statement 3-S.

Table 2

Impact of OCA Scale Back on GMS Class Increases
Basis: OCA Primary Customer Charge Recommendation
Columbia Division

Class	*OCA Proposed Increase*	*Relative Class Increase*	*OCA Scaled Increase*	*Relative Scaled Increase*
	(1)	(2)=(1)/13.8	(3)	(4)=(3)/8.2
Residential	12.4%	0.90	6.5%	0.79
Commercial	18.4%	1.33	12.2%	1.49
Industrial	42.2%	3.06	34.9%	4.26
Public	12.6%	0.91	6.7%	0.82
Tot. Columbia Div.	13.8%.	1.00	8.2%	1.00

OCA Main Brief, Appendix B, Table A, Page 1.

As shown in columns 1 and 2 Table 2, the OCA's proposed GMS rate design would assign a *below* Division-average increase of 12.4% to the Residential class, while assigning *greater than* Division-average increases to the Commercial and Industrial classes of 18.4% and 42.2%, respectively. As the OSBA has argued throughout this proceeding, there is no valid cost basis in record evidence which would validate the assignment of non-uniform increases to the Company's Columbia Division GMS classes at the conclusion of this case.

Moreover, columns 3 and 4 of Table 2 shows that the OCA's proposed scale back method would only *exacerbate* the non-cost-based class increases that the OCA proposes to assign to GMS customers in the Columbia Division. Under the OCA's scale back proposal, the average increase in the Columbia Division would decline from 13.8% to 8.2%, but the GMS classes would not share proportionately in that reduction. If the GMS classes were to share proportionately in the rate relief provided by the scale back, the relative class increases shown in columns 2 and 4 of Table 2, set forth *supra*, would be unchanged.

Instead, the OCA's scale back proposal would assign greater than proportional rate relief to the Residential and Public classes, at the expense of the Commercial and Industrial classes. While the OCA's Main Brief identifies the OCA's scale back proposal, the OCA fails to provide any argument in support of why its scale back proposal would result in just and reasonable rates. OCA Main Brief, at 70-71.

Consequently, the only conclusion that can reasonably be drawn is that the OCA is advocating for an *ad hoc* scale back proposal, one designed to reduce the increase that would otherwise be assigned to residential customers at the conclusion of this case.

Table C in Appendix B to the OCA's Main Brief purportedly provides an average monthly bill comparison for each GMS customer class, by Division, under the OCA's proposals. However, as shown in Table C, the OCA's rate impact analysis employs the Company's erroneous industrial present monthly bill total of $598.10 for a Columbia Division customer. Accordingly, the OCA's reported Columbia Division industrial rate impact under each scenario shown in Table C is in error. Correcting the OCA's reporting error would require that the OCA provide its proposed GMS consumption charges under every scenario shown in Table C – none of which are included in Table C.

D. Summary and Alternatives

The ALJs and the Commission are left with three choices for determining a class revenue allocation in this proceeding. First, use the professional best guess of Company witness Mr. Fox to determine GMS rate design, which would set a precedent that cost-of-service evidence is unnecessary to set utility rate levels – in violation of *Lloyd*.[7] Second, adopt the OCA's recommendation to use results obtained in unrelated utility cases involving Act 11 as a template to determine rate design and revenue allocation in the instant proceeding, which would set a precedent that utilities need not conduct their own cost analyses when filing for a base rate increase. Transcript, at page 91, lines 5-12.

The third choice is to recognize that there is no record evidence upon which to assign *cost-based revenue increases* to Columbia Water's residential, commercial, industrial, and public authority classes in this proceeding. When that choice is selected, the OSBA respectfully submits that the just and reasonable solution is to assign uniform increases to the Company's Columbia Division GMS customer classes, while consolidating Columbia Division and Marietta Division rates at the conclusion of this case.

[7] *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010 (Pa. Cmwlth. 2006), *appeal denied*, 591 Pa. 676 (2007).

X. Conclusion

The Office of Small Business Advocate respectfully requests that the ALJs and the Commission:

Recognize that there is no record evidence upon which the ALJs or the Commission can assign cost-based revenue increases among Columbia Water's GMS customer classes;

In lieu of cost evidence, assign uniform increases to the Company's Columbia Division GMS customer classes;

Adopt the OSBA's recommended rate design as set forth in its Main Brief; and

Adopt the OSBA's recommended scale back methodology as set forth in its Main Brief.

Respectfully submitted,

/s/ Steven C. Gray

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney I.D. No. 77538

For:
NazAarah Sabree
Small Business Advocate

Date: September 21, 2023

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PENNSYLVANIA PUBLIC UTILITY COMMISSION

Columbia Water Company 2023 General Base Rate Increase Filing - Supplement No. 121 To Tariff – Water Pa. P.U.C. No. 7	: : : : :	**Docket No. R-2023-3040258**

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Mary D. Long
Administrative Law Judge
Pennsylvania Public Utility Commission
301 5th Avenue Suite 220
Pittsburgh, PA 15222
malong@pa.gov

The Honorable Charece Z. Collins
Chief Administrative Law Judge
Pennsylvania Public Utility Commission
400 North Street
Commonwealth Keystone Building
Harrisburg, PA 17120
charcollin@pa.gov

Barrett C. Sheridan, Esquire
Erin L. Gannon, Esquire
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
bsheridan@paoca.org
egannon@paoca.org

Vincent E. Collier III
3287 Horizon Drive
Lancaster, PA 17601
vecollierIII@gmail.com

Carrie B. Wright, Esquire
Bureau of Investigation & Enforcement
400 North Street
Commonwealth Keystone Building
Harrisburg, PA 17120
carwright@pa.gov

Sandra E. Shaub
3282 Horizon Drive
Lancaster, PA 17601
sandishaub@comcast.net

Thomas J. Sniscak, Esquire
Whitney E. Snyder, Esquire
Phillip D. Demanchick, Jr., Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com
wesnyder@hmslegal.com
pddemanchick@hmslegal.com

DATE: September 21, 2023

/s/ Steven C. Gray

Steven C. Gray
Senior Supervising
Assistant Small Business Advocate
Attorney ID No. 77538