



COMMONWEALTH OF PENNSYLVANIA

February 2, 2024

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 for filing today please find the Petition for Reconsideration, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding. As evidenced by the enclosed Certificate of Service, copies will be served on all known parties in this proceeding.

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 I.D. 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 : **Docket No. R-2023-3040258**
No.121 To Tariff – Water Pa. P.U.C. No.7 :

**PETITION FOR RECONSIDERATION OF THE
OPINION AND ORDER
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

**Steven C. Gray
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For:

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Date: February 2, 2024

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Pursuant to 52 Pa. Code §5.572, the Office of Small Business Advocate (“OSBA”) files this Petition for Reconsideration of the January 18th, 2024, Opinion and Order of the Pennsylvania Public Utility Commission (“Commission”) in the above-captioned proceeding (“January 18th Order”) and avers the following in support of the Petition:

I. Introduction

1) On April 28, 2023, the .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.

2) On May 9, 2023, the Office of Small Business Advocate (“OSBA”) filed a Complaint in this proceeding.

3) The OSBA submitted the direct, rebuttal, and surrebuttal testimony of its witness, Brian Kalcic, in August of 2023.

4) After the August 28, 2023, hearing held before Administrative Law Judges (“ALJs”) Mary D. Long and Charece Z. Collins, the OSBA submitted its Main Brief on September 12, 2023, and its Reply Brief on September 21, 2023.

5) On October 23, 2023, the ALJs issued their Recommended Decision (“RD”).

6) On November 2, 2023, the OSBA filed Exceptions to the RD.

7) On January 18, 2024, the Commission entered its Order in this proceeding.

8) On January 25, 2024, Columbia Water submitted its Compliance Filing in accordance with the January 18th Order.

9) By this Petition, the OSBA seeks reconsideration of the Commission’s January 18th Order.

II. Legal Standards

10) In *Philip Duick et al. v. Pennsylvania Gas and Water Company*, 56 Pa. PUC 553, 559 (1982), the Commission set forth the standards for granting reconsideration:

A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the *Pennsylvania Railroad Company* case, wherein it was said that ‘[p]arties . . . , cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them. . . .’ What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.

11) In *Pennsylvania Public Utility Commission v. Jackson Sewer Corporation*, 2001 Pa. PUC LEXIS 44, the Commission also stated:

Additionally, a Petition for Reconsideration is properly before the Commission where it pleads newly discovered evidence, alleges errors of law, or a change in circumstances.

Jackson Sewer, 2001 Pa. PUC LEXIS 44, at *6.

12) This Petition satisfies *Duick* and *Jackson Sewer*, in that this Petition raises issues “which appear to have been overlooked or not addressed by the Commission,” “newly discovered evidence,” and “alleges errors of law.”

III. Matters for Reconsideration

(A) The OSBA requests that the Commission to reverse its decision to allow a customer class to receive a 2.50 times system average rate increase in violation of the accepted legal concepts of gradualism and rate shock.

13) In the January 18th Order, the Commission adopts the ALJs’ recommendation that Columbia Water’s general revenue allocation, as supported by the Office of Consumer Advocate (“OCA”), be approved. January 18th Order, at 143-144.

14) In support of its decision, the Commission discusses several ratemaking principles that guided its disposition of this issue, including cost of service, gradualism, the avoidance of rate shock, and basic fairness.

15) The Commission is also cognizant of the rate impacts that will result under Columbia Water’s proposal to consolidate rates across the Company’s Columbia and Marietta rate districts. January 18th Order, at 144-145.

16) In the January 18th Order, the Commission stated, as follows:

Utilizing the principle of cost causation in tandem with secondary considerations for gradualism and affordability, we have thoroughly reviewed the Company’s and the respective advocates’ arguments before us. We have previously recognized that, although there are no definitive rules for determining what kind of rate increase would violate the principle of gradualism, **limiting the maximum average rate increase for any particular rate class to 2.0 times the system average increase is one common metric that has been used by experts in the Commonwealth.** Considering the allocation of the increase in base revenues set forth under the Company’s proposed rates, **the industrial class would experience the largest increase at 2.5 times the system average increase.** Given that the Company’s proposal in the instant proceeding includes the establishment of unified rates for Columbia and Marietta rate district customers,

as well as recognition that the rates established in the 2017 Columbia Rate Case were a product of a settlement between the parties, not guided by the results of any COSS, **we do not consider the revenue allocation under the Company's proposal to be unreasonable.**

January 18th Order, at 146 (emphasis added).

17) Furthermore, in Table 13, on page 145 of the January 18th Order, the Commission presents a summary of Columbia Water's revenue allocation proposal, by customer class and rate district, at the Company Water's originally-filed requested revenue requirement level.

18) As shown in Table 13, the Industrial class would receive the largest increase under Columbia Water's proposal – approximately 2.5 times the system average increase, in both the Columbia rate district and on a total consolidated basis.

19) As set forth in the passage, *supra*, while an increase of 2.5 times the system average exceeds the “more common” metric of limiting the maximum class increase to 2.0 times the system average, the Commission explains that in this instance, a class increase of 2.5 times the system average is “not an unreasonable outcome,” given that the Commission expects such increases to apply to only a small subset of commercial and industrial customers located in the to-be-consolidate Marietta rate area.

20) Moreover, even in those instances where a Marietta Division customer receives a large increase, the Commission reasons that such increases would not exceed 2.0 times the overall Marietta Division increase under Columbia's proposed revenue allocation. January 18th Order, at 145-148.

21) As set forth *infra*, the OSBA has determined that the extremely large increases would *not* affect only a small subset of commercial and industrial customers located in the Marietta rate area.

22) In issuing its January 18th Order, the Commission sets a new standard for rate gradualism – 2.50 times the system average increase (“*New 2.5 Times Standard*”).

23) Unless corrected, the Commission’s *New 2.5 Times Standard* will now become precedent for all future rate cases in the Commonwealth, regardless of utility type.

24) The OSBA submits that the *New 2.5 Times Standard* is in direct violation of Section 1301 of the Public Utility Code (“*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.*”) (emphasis added)

25) If the Commission wishes to correct its precedential error by recanting the *New 2.5 Times Standard*, the Commission should revert back to the 2.0 times standard in its revised Order and specifically disavow the *New 2.5 Times Standard*.

26) It would not be sufficient for the Commission to attempt to dismiss the *New 2.5 Times Standard* as precedent by alluding to “special” or “limited circumstances” in this proceeding. As discussed *infra*, the 2.5 times standard is applied to a major customer class, and the assigned increase is not the byproduct of rate consolidation.

(B) The OSBA requests that the Commission not compound its 2.5 times error by adopting the OCA’s proposed rate design and scale back methodology.

27) While the Commission adopts the ALJs’ recommendation that Columbia Water’s general revenue allocation be approved, the Commission also adopts (i) the OCA’s proposed reductions to Columbia Water’s customer charges, and the corresponding “shift of the resulting revenue deficiency” to usage-based rates on a proportional basis, as well as (ii) the OCA’s proposed scale back method. January 18th Order, at 144 and 159-160.

28) The unfortunate result of the Commission’s adoption of the OCA’s proposed rate design *and* scale back methodology is that Columbia Water’s proposed revenue allocation and

accompanying rate design impacts (which the Commission discusses at length in its January 18th Order) are abandoned and no longer relevant.

29) Consistent with the directives contained in the January 18th Order, Columbia Water submitted its Compliance Filing implementing the Commission's awarded increase of \$0.971 million on January 25, 2024.

30) Table 1 below presents a summary of the revenue allocation contained in Columbia Water's Compliance Filing, showing customer class increases, by rate district, at the Company's awarded revenue requirement level.

Table 1

Summary of Columbia's Compliance Filing Rate Increases,
by Customer Class and Rate District

Class	Columbia Rate District			Marietta Rate District			Total Consolidated		
	Compliance Filing Inc.			Compliance Filing Inc.			Compliance Filing Inc.		
Residential	\$434,559	11.9%	0.9	\$186,775	30.5%	0.9	\$621,334	14.6%	0.9
Commercial	\$133,707	17.8%	1.3	\$27,084	43.9%	1.3	\$160,792	19.8%	1.2
Industrial	\$89,295	41.8%	3.1	\$73,877	62.8%	1.8	\$163,172	49.3%	3.0
Public	\$8,113	12.1%	0.9	\$7,381	51.3%	1.5	\$15,494	19.0%	1.2
Priv. Fire	\$961	1.1%	0.1	\$2,499	8.1%	0.2	\$3,460	2.9%	0.2
Pub. Fire	\$2,432	1.0%	0.1	\$4,492	11.1%	0.3	\$6,923	2.4%	0.1
Total	<u>\$669,067</u>	13.3%	1.0	<u>\$302,107</u>	34.4%	1.0	<u>\$971,174</u>	16.5%	1.0

See, Columbia Exhibit DF-11RJ (8/25 Rejoinder) and Columbia's 1/25/24 Compliance Filing.

31) As shown in Table 1, the Industrial class increase is no longer “limited” to 2.5 times the system average increase upon adopting the OCA’s proposed rate design and scale back methodology.

32) Instead, the Industrial class is now slated to receive an overall increase of 3.1 times the system average in the Columbia rate district and 3.0 times the overall system average of 16.5% on a total consolidated basis.

33) Moreover, Table 1 shows that the aggregate Commercial and Industrial class increase of \$160,792 plus \$163,172 (\$323,964 on a total consolidated basis) exceeds Columbia’s corresponding proposed aggregate increase of \$155,252 plus \$139,106 (\$294,358 on a total

consolidated basis)¹ by \$29,606, or an average of 2.6%, even though Columbia’s awarded increase is 0.5% lower than originally requested.

34) Consequently, unless corrected, the Commission will have already exceeded its *New 2.5 Times Standard* in this proceeding by assigning a major customer class an increase of 3.0 times the system average.

35) Table 2 below shows the percentage increases that are applied to the Company’s existing Columbia division volumetric usage rates in Columbia Water’s Compliance Filing, and explains why the Industrial class increase has increased dramatically from the levels discussed in the January 18th Order.

Table 2

Summary of Columbia's Existing and Compliance Filing
Volumetric Usage Rates

Tier	Usage Block	Current Rate (1,000 G.)	C.F. Rate (1,000 G.)	Increase
1	First 10,000 gallons	\$7.20	\$7.77	7.9%
2	Next 240,000 gallons	\$2.77	\$3.54	27.8%
3	Over 250,000 gallons	\$1.95	\$3.06	56.9%

See, Columbia Exhibit DF-11RJ (8/25 Rejoinder) and Columbia's 1/25/24 Compliance Filing.

36) As shown in Table 2, the Compliance Filing assigns greater percentage increases to all usage charges as compared to Columbia Water’s proposed rate design, which is summarized in Table 9 on page 119 of the January 18th Order.

¹ See Table 13 in the January 18th Order.

37) In particular, the increase applied to the third usage block in the Compliance Filing is 56.9%.

38) This disproportionate increase results in an *average* industrial customer increase of 41.8% in the *Columbia rate area*, which is particularly egregious given the fact that the Columbia rate area is not the rate area subject to rate consolidation in this proceeding.

39) Furthermore, if the *average* industrial customer increase in the Columbia rate area is 41.8%, there must be a subset of Columbia division customers that receive an increase in *excess* of 41.8%, or 3.1 times the Columbia rate area average increase.

40) Thus, contrary to the Commission's conclusion that only a small subset of commercial and industrial customers located in the to-be-consolidate Marietta rate area may be expected to receive increases on the order of 2.5 times the system average, Columbia's Compliance Filing assigns increases in excess of 2.5 times the system average to a much larger population of commercial and industrial customers located in both the Columbia and Marietta rate divisions.

IV. Conclusion

The OSBA submits that assigning a major customer class an average increase of 3.0 times the system average in a base rate case does not comport with the traditional ratemaking principles of gradualism, the avoidance of rate shock, and basic fairness.

Indeed, the assignment of such a large increase in this rate proceeding would establish a ground-breaking precedent that would have far reaching consequences in future rate proceedings across the Commonwealth.

Therefore, the OSBA respectfully requests that the Commission reconsider its decision to adopt the OCA's proposed rate design and scale back method, and instead direct the Company to implement a final revenue allocation that is consistent with traditional ratemaking principles of gradualism, the avoidance of rate shock, and basic fairness.

Respectfully submitted,

/s/ Steven C. Gray

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Dated: February 2, 2024

VERIFICATION

I, NazAarah Sabree, hereby state that the facts set forth herein above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: February 2, 2024



(Signature)

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:
:
:

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
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DATE: February 2, 2024