

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held March 14, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Pennsylvania Public Utility Commission
Office of Consumer Advocate
Office of Small Business Advocate
Sandra E. Shaub
Vincent E. Collier III

R-2023-3040258
C-2023-3040746
C-2023-3040567
C-2023-3041197
C-2023-3041198

v.

Columbia Water Company

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Reconsideration (Petition) filed by the Office of Small Business Advocate (OSBA) on February 2, 2024, seeking reconsideration of the Opinion and Order entered on January 18, 2024 (*January 2024 Order*), relative to the above-captioned proceeding. Columbia Water Company

(Columbia or the Company) and the Office of Consumer Advocate (OCA) filed Answers to the Petition on February 12, 2024 and February 13, 2024, respectively.

By notational vote, the Commission entered an Opinion and Order on February 7, 2024, granting reconsideration and preserving Commission jurisdiction of the Petition.

For the reasons stated, *infra*, upon consideration of the Petition and the Answers thereto, finding no persuasive reason for reconsideration, we shall deny reconsideration of our *January 2024 Order*.

I. History of the Proceeding¹

On April 28, 2023, Columbia filed Supplement No. 121 to Tariff – Water Pa. P.U.C. No. 7 (Supplement No. 121) to become effective on June 27, 2023.² Through its general rate increase request, *as revised*,³ Columbia proposed a base rate change, applicable to customers of its Columbia and Marietta rate districts, designed to produce

¹ A more complete discussion of the history of this proceeding prior to the entry of the *January 2024 Order*, including a description of the service territory and Columbia’s purported reasons driving the requested rate increase, is presented in the *January 2024 Order*. See, *January 2024 Order* at 3-7.

² By Order entered June 15, 2023, the Commission suspended the implementation of Supplement No. 121 by operation of law, pursuant to 66 Pa. C.S. § 1308(d), until January 27, 2024, unless permitted by Commission Order to become effective at an earlier date, and instituted an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations proposed.

³ Columbia made various revisions and updates to its rate increase request during the proceeding. See, *January 2024 Order* at 2, fn. 1. Under Columbia’s conclusive revenue increase request, Columbia designed rates to produce approximately \$8,244,826 in annual operating revenue, not including revenue from the East Donegal Township Municipal Authority (EDTMA) rate district.

an increase in Columbia's total annual operating revenues of \$999,900, or approximately 13.8%, based on a future test year (FTY) ending December 31, 2023.⁴

In the Recommended Decision (R.D.), issued on October 23, 2023, Administrative Law Judges (ALJs) Mary D. Long and Charece Z. Collins recommended that Columbia's Supplement No. 121, which proposed changes in rates, rules, and regulations designed to produce an increase in Columbia's total annual operating revenues of approximately \$999,900, be denied because the Company did not meet its burden of proving by a preponderance of the evidence the justness and reasonableness of every element of its requested increase. Instead, the ALJs recommended the approval of an increase in annual operating revenue in the amount of \$944,893, or approximately 13% over present rates. R.D. at 3, 78.

Columbia, the Commission's Bureau of Investigation and Enforcement (I&E), the OCA, and the OSBA filed Exceptions to the Recommended Decision on November 2, 2023. On November 9, 2023, Columbia, I&E, and the OCA filed Replies to Exceptions. In the *January 2024 Order*, we: (1) denied the Exceptions filed by Columbia, the OCA, and the OSBA; (2) granted, in part, and denied, in part, the Exceptions filed by I&E; (3) adopted the ALJs' Recommended Decision, as modified; and (4) approved an annual revenue increase of \$971,180 to the Company's *pro forma* revenue at present rates of \$7,244,926, or approximately 13.4%. *See, January 2024 Order* at 166.

⁴ The Company adopted a "Black Box Customer Discount" in this proceeding, capping its requested increase in annual revenues at \$999,900, which, according to Columbia, mitigated the potential impact to customers of the annual revenue increase of \$1,293,424 that the Company claims it would be entitled to based on traditional ratemaking considerations. *See, Columbia Exh. GDS 1-R* at 1-4. Columbia explained that the Black Box Customer Discount adjustment is a placeholder and is intended to offset adjustments to the Company's rate request that may be proposed by the Commission's Bureau of Investigation and Enforcement (I&E) and/or other intervenors in this proceeding. *Columbia St. 2* at 17.

On January 25, 2024, Columbia filed Supplement No. 125 to Tariff – Water Pa. P.U.C. No. 7 (Supplement No. 125), to become effective on January 27, 2024, in compliance with the *January 2024 Order*.^{5, 6}

As previously noted, the OSBA filed the instant Petition on February 2, 2024. Columbia and the OCA filed Answers to the Petition on February 12, 2024 and February 13, 2024, respectively.

By Opinion and Order entered on February 7, 2024, we granted the OSBA’s Petition, pending review of and consideration of the merits.

II. Legal Standards

Initially, we note that any issue we do not specifically address herein has been duly considered and will be denied without further discussion. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the Parties. *Consolidated Rail Corporation v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

With respect to petitions for rehearing, reconsideration, rescission and amendment of Commission orders, the Code establishes a party’s right to seek relief within fifteen days following the service of a Commission order pursuant to

⁵ On January 30, 2024, Columbia filed a corrected tariff supplement to revise the filing in accordance with its authorized quarterly fire protection rates.

⁶ By Secretarial Letter dated February 6, 2024, the Commission approved Columbia’s compliance tariff.

Subsections 703(f). 66 Pa. Code § 703(f)(relating to rehearing).⁷ Upon the filing of a petition for relief pursuant to Section 703(f) the Commission may affirm, rescind, or modify its original order. 66 Pa. C.S. § 703(f). The Code further provides that the Commission may, at any time, after notice and opportunity to be heard by all affected parties, rescind or amend any order made by the Commission, pursuant to Section 703(g). 66 Pa. C.S. § 703(g)(relating to rescission and amendment of orders). A request for relief pursuant to § 703(f) or § 703(g) must be brought as a petition for relief consistent with Section 5.572 of Commission Regulations. 52 Pa. Code § 5.572 (relating to petitions for relief).

Petitions for relief predicated upon Sections 703(f) and 703(g) of the Code, whether brought under Section 5.572 (c) of Commission Regulations as a petition for reconsideration, rehearing, reargument, clarification, supersedeas or others within fifteen days of the service of a Commission order, or under Section 5.572(d) as a petition for rescission or amendment filed at any time following service of a Commission order, are reviewed by the Commission under the same standard.

The standard for granting a petition for amendment, reconsideration, or rescission is set forth in *Philip Duick et al v Pennsylvania Gas and Water Company*, 56 Pa. PUC 553 (1982) (*Duick*) as follows:

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 on the grounds that the decision or ruling of the Commission on a matter or issue was either unwise or in error.

⁷ Petitions under this section which do not allege new evidence are typically treated as petitions for reconsideration. Petitions for *rehearing* pursuant to Section 703 (f) of the Code, typically include an allegation of new evidence. 66 Pa. Code § 703(f); *See, West Penn Power Co. v. Pa. PUC*, 659 A. 2d 1055 (Cmwlth. 1995).

In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein the Court said,

[b]ut the grounds for reconsideration should be restricted to the new matters and new or changed conditions set up in the joint petition, which had arisen since and were not presented in the several petitions of these appellants ... and dismissed by the Commission ... and not appealed from. Parties,..., cannot be permitted, by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them and not appealed from. ...

Pennsylvania Railroad Co. v. Public Service Commission, 118 Pa. Super. 380 (1935).

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. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

Duick at 559; *see also*, *AT&T v Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth. 1990).

Application of the considerations of *Duick* essentially requires a two-step analysis. *See, e.g., SBG Management Services, Inc./Colonial Garden Realty Co., L.P. v. Philadelphia Gas Works*, Docket No. C-2012-2304183 (Opinion and Order entered May 19, 2019) (*SBG Order*)⁸ (discussing *Application of La Mexicana Express Service, LLC, to transport persons in paratransit service, between points within Berks County*, Docket No. A-2012-2329717; A-6415209 (Opinion and Order entered September 11, 2014)).

² *Affirmed, Phila. Gas Works v. Pa. PUC*, 249 A.3d 963 (2021); No. 14 EAP 2020 (April 29, 2021); 2021 WL 1681311; *remand granted, in part* (June 15, 2021); 2021 WL 2697432 (Table).

The first step is to determine whether a party has offered new and novel arguments or identified considerations that appear to have been overlooked or not addressed by the Commission in its previous order. This initial step generally precludes a party from raising the same questions which were specifically considered and decided against them by a prior Order of the Commission. *Duick* at 559 (citing *Pennsylvania Railroad Co. v. Public Service Commission*, 118 Pa. Super. 380 (1935)). The second step of the *Duick* analysis is to evaluate the new or novel argument, or overlooked consideration that is alleged, to determine whether to modify our previous decision.

Duick also held that reconsideration based on newly discovered evidence must allege newly discovered evidence *not discoverable through the exercise of due diligence prior to the close of the record*. *Duick* at 558. In this same respect, a Petition for Reconsideration cannot be used to raise new arguments or issues that *should have been raised previously*. As the Commission determined in *Pa. PUC v. PPL Elec. Utils. Corp.*:

...the *Duick* standard does not permit a petitioner to raise questions considered and decided below such that the petitioner obtains a second opportunity to argue properly settled matters. Indeed, the Pennsylvania Supreme Court has noted that petitions that request modification or rescission of a final agency order may only be granted judiciously and under appropriate circumstances because such an action results in the disturbance of final agency orders. *City of Pittsburgh v. Pennsylvania Department of Transportation*, 490 Pa. 264, 416 A.2d 461 (1980).

Pa. PUC v. PPL Elec. Utils. Corp., Docket No. R-2012-2290597 (Opinion and Order entered February 28, 2013) at 3.

III. Discussion

Initially, we note that any issue we do not specifically address herein has been duly considered and will be denied without further discussion. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the Parties. *Consolidated Rail Corporation v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

A. *January 2024 Order*

In the *January 2024 Order*, we modified the ALJs' recommendation to approve an increase in annual operating revenue in the amount of \$944,893, or approximately 13% over present rates, and approved an annual revenue increase of \$971,180 to the Company's *pro forma* revenue at present rates of \$7,244,926, or approximately 13.4%, which was \$28,720 less than the Company's requested increase.

Relevant to our present consideration of the OSBA's Petition, the Commission's *January 2024 Order*, adopting the ALJs' recommendation that Columbia's general revenue allocation proposal be approved, stated that "[g]iven 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 [cost of service study], we do not consider the

revenue allocation under the Company’s proposal to be unreasonable.”⁹ *January 2024 Order* at 146. In adopting the ALJs’ recommendation, the Commission further found that “with respect to finding the Company’s [cost of service study] adequate given the data available in this proceeding, as well as our acknowledgement of and discussion, *infra*, with respect to our adoption of the OCA’s proposed reductions to the Company’s proposed customer charge increases and the corresponding shift of the resulting revenue deficiency to usage-based rates on a proportional basis, we are not persuaded to reverse the ALJs’ recommendation.” *Id.* at 143-44. The Commission expressly rejected the OSBA’s position, stating that “[a]s the OSBA’s proposal regarding revenue allocation, is based upon its objections to any reliance on the Company’s cost of service study (COSS), which we have rejected, we conclude that the OSBA’s proposal to assign uniform increases to the Company’s Columbia rate district volumetric rate tiers should similarly be denied. *Id.* at 144.

The ALJs’ recommendation was made after consideration of the competing proposed alternative revenue allocations, including those proposed by the OSBA. In adopting Columbia’s general allocation proposal, endorsed by the OCA, the ALJs noted the following benefits to ratepayers: (1) a reduction of the severity of the existing differentials between the rate tiers; (2) a larger percentage increase to the higher volume tiers that would provide a stronger price signal, promoting conservation; and (3) such customer conservation may provide a benefit of delaying, reducing or avoiding the costs

⁹ As to revenue allocation, the Company and the OSBA differed as to how to move the current consumption block tiered rates established by the 2017 settlement to determine new volumetric charges for the consolidated rate districts. *January 2024 Order* at 127-49. “[W]hile the development of volumetric rates is a rate design matter, it has implications for the allocation of revenue requirement between the classes and is discussed here as a revenue allocation issue.” *Id.* at 128. The OCA favored the Company’s approach “which would reduce the severity of the consumption block differentials, over the OSBA’s proposal to assign a uniform percentage rate increase, with the result of roughly maintaining the current rate differentials between the volumetric tiers.” *Id.* at 131.

of capital improvement projects. R.D. at 71-72 (citing Columbia St. 3-R at 11; OCA St. 1 at 11).

The ALJs' analysis, which was adopted by the *January 2024 Order*, was consistent with the principle of cost causation, as well as the secondary considerations for gradualism and affordability.

In addressing the OSBA's concerns regarding the rate impact to the larger users of water consumption, we noted the following:

The Commission has in the past utilized a rate implementation rule that limited the overall increase in individual customer bills to no more than two times the overall revenue increase granted. In this instance, under the Company's proposed rates, the only bills that would exceed this threshold ($17\% \times 2 = 34\%$) are those of a typical commercial (65% increase) and industrial (64.4% increase) customer located in the Marietta rate district. However, as previously indicated, the three-tier volumetric rate structure proposed by Columbia is applicable to approximately 90% of the customers for which Columbia is requesting rate increases. Of this 90%, commercial and industrial customers located in the Marietta rate district account for less than 1%. Therefore, we find that larger increases to such a small subset of customers to not be an unreasonable outcome, given the conflicting objectives of moving towards fully consolidated rates and maintaining gradualism in customer bill impacts, especially considering the fact that customers in the Marietta rate district have been paying less for the same service as provided to customers in the Columbia rate district for over ten years. Furthermore, as shown above, based on the Company's request, the overall increase experienced by customers in the Marietta rate district is 32.6%. Based on this isolated look, the bill increases for an average commercial and industrial customer located in the Marietta rate district would not exceed the threshold.

January 2024 Order at 147-48 (footnotes omitted).

Furthermore, since we had not granted the entirety of Columbia's requested revenue increase, we found it necessary for the Company to proportionately scale back the customer charges and volumetric rates, as found appropriate in the *January 2024 Order*, excluding private and public fire protection rates, when filing its compliance tariff(s). *January 2024 Order* at 159-61.

B. OSBA Petition and Answers

By its Petition, the OSBA seeks reversal of certain aspects of the Commission's decision in the *January 2024 Order* regarding rate structure and revenue allocation. Specifically, the OSBA requests that the Commission: (1) reverse its decision to allow the Industrial customer class to receive a 2.5 times the system average increase in violation of the principles of gradualism and rate shock; and (2) reverse its decision to adopt the OCA's proposed rate design and scale back methodology, which the OSBA alleges compounds the 2.5 times error. Petition at ¶¶ 13-40.

In support of its request, the OSBA notes the Commission's invocation of a rate implementation metric limiting the maximum increase to any class to 2.0 times the system average increase. Petition at 3-4 (citing *January 2024 Order* at 146). The OSBA then points to the impact of the revenue allocation approved by the *January 2024 Order*, at Columbia's requested increase, as shown in Table 1 below:

Table 1: Summary of Columbia's Revenue Allocation of its Requested Revenue Increase by Rate District

Class	Columbia Rate District			Marietta Rate District			Total Consolidated		
	Requested Increase			Requested Increase			Requested Increase		
Residential	\$495,648	13.6%	1.0	\$181,405	29.6%	0.9	\$677,053	15.9%	0.9
Commercial	\$126,877	16.9%	1.2	\$28,375	46.0%	1.4	\$155,252	19.1%	1.1
Industrial	\$76,990	36.1%	2.5	\$62,116	52.8%	1.6	\$139,106	42.0%	2.5
Public	\$11,333	16.9%	1.2	\$7,242	50.3%	1.5	\$18,575	22.8%	1.3
Private Fire Protection	\$960	1.1%	0.1	\$2,499	8.1%	0.2	\$3,459	2.9%	0.2
Public Fire Protection	\$2,432	1.0%	0.1	\$4,492	11.2%	0.3	\$6,924	2.4%	0.1
Total GMS	\$714,240	14.2%	1.0	\$286,129	32.6%	1.0	\$1,000,369	17.0%	1.0

See, Columbia Exhs. DF-11RJ (8/25 Rejoinder) and DF-8RJ (8/25 Rejoinder)

See, *January 2024 Order* at 145. The OSBA points out that the Industrial class would receive approximately 2.5 times the system average increase, in both the Columbia rate district and on a total consolidated basis, which exceeds the more common metric of limiting the maximum class increase to 2.0 times the system average increase. Petition at 4. The OSBA submits that the “*New 2.5 Times Standard*” is in direct violation of Section 1301 of the 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.”). Petition at ¶ 24 (citing 66 Pa. C.S. § 1301).

Second, the OSBA argues that this “*New 2.5 Times Standard*” should not be compounded by adopting the OCA’s proposed rate design and scale back methodology, as is done by the *January 2024 Order*. Petition at ¶¶ 27-40. As shown in Table 2 below, the OSBA contends that the Industrial class increase is no longer “limited” to the 2.5 times the system average increase upon adopting the OCA’s proposed rate design and scale back methodology, but rather will experience an increase equivalent to 3.0 times the system average increase on a consolidated basis.

Table 2: Summary of Columbia's Revenue Allocation Per Its Compliance Filing

Class	Columbia Rate District Compliance Filing Increase			Marietta Rate District Compliance Filing Increase			Total Consolidated Compliance Filing Increase		
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	\$27,085	43.9%	1.3	\$160,792	19.8%	1.2
Industrial	\$89,295	41.8%	3.1	\$73,876	62.8%	1.8	\$163,171	49.3%	3.0
Public	\$8,113	12.1%	0.9	\$7,381	51.3%	1.5	\$15,494	19.0%	1.2
Private Fire Protection	\$960	1.1%	0.1	\$2,499	8.1%	0.2	\$3,459	2.9%	0.2
Public Fire Protection	\$2,432	1.0%	0.1	\$4,492	11.2%	0.3	\$6,924	2.4%	0.1
Total GMS	\$669,066	13.3%	1.0	\$302,108	34.4%	1.0	\$971,174	16.5%	1.0

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

See, Petition at 7. Therefore, the OSBA contends that, unless corrected, the Commission will already exceed its “*New 2.5 Times Standard*” in this proceeding by assigning the Industrial class an increase of 3.0 times the system average. Petition at ¶ 34.

As relief, the OSBA requests that the Commission: (1) reconsider its decision to adopt the OCA’s proposed rate design and scale back method; and (2) direct the Company to implement a final revenue allocation that is consistent with traditional ratemaking principles. Petition at 10.

In its Answer, Columbia first contends that the OSBA’s Petition should be denied because the OSBA has failed to raise gradualism arguments at prior stages of this proceeding and thus, has waived the issue.¹⁰ Columbia Answer at 1-2, 6.

¹⁰ Columbia argues that the OSBA’s Petition contains new arguments that it did not previously raise, and which may not be raised for the first time at this stage in the proceeding. Columbia Answer at 3-4, 6 (*citing Ruth Matieu-Alce v. Philadelphia Gas Works*, Docket No. F-2015-2473661 (Order entered April 7, 2016) at 10-11; *Pa. PUC v. Uber Technologies, Inc.*, Docket No. C-2014-2422723 (Order entered September 1, 2016); and *Petition of PPL Electric Utilities Corporation for Approval of a Distribution System Improvement Charge*, Docket Nos. P-2012-2325034, *et al.* (Order entered October 1, 2015)).

Second, Columbia argues that the OSBA's Petition does not satisfy the well-established standards for reconsideration set forth in *Duick*, as it fails to present new or novel arguments or issues the Commission has not previously considered. Columbia asserts that "just because OSBA failed to raise gradualism arguments at each required stage of the proceeding does not brand those arguments new or novel." Columbia Answer at 1-2, 7-8.

Lastly, Columbia posits that, since the Commission has already approved the Company's compliance tariff by way of its February 6, 2024 Secretarial Letter and the Company has implemented the rate increase consistent with the compliance tariff, granting reconsideration would: (1) create inefficiencies for the Company in having to enact another round of software and billing system changes to implement modified rates; and (2) create confusion to residential customers whose rates will necessarily increase, thus, creating a false appearance of the Company implementing two rate increases in a short period of time. Columbia Answer at 3, 8-9.

In its Answer to the OSBA's Petition, the OCA echoes Columbia's objection to the Petition on the basis that it fails to satisfy the *Duick* standard. The OCA argues that the Commission gave the OSBA's opposition to the Company's COSS and changes in the three rate tiers at proposed revenues due consideration. The OCA notes that, although the OSBA may not agree with the rate structure outcome of the *January 2024 Order*, including the Commission's balancing of the principles of rate gradualism, affordability, promotion of conservation, the OSBA Petition does not satisfy the *Duick* standard to merit a grant of reconsideration. OCA Answer at 2, 7.

Contrary to the OSBA's arguments in its Petition, the OCA contends that the Commission did not overlook or fail to address issues related to rate structure and the appropriate scale back to implement the lesser allowed increase in revenues. Nor has the OSBA identified newly discovered evidence or an error of law, to merit both

reconsideration by the Commission and reversal of the Commission’s decision on rate structure and scale back. OCA Answer at 3 (citing Petition at ¶ 12). The OCA asserts that the Commission’s decision on the issues of rate structure set forth in the *January 2024 Order* were properly based upon the evidentiary record, with consideration taken of each of the OSBA’s six Exceptions to the ALJs’ Recommended Decision related to the rate structure issues, as well as the Replies thereto.¹¹ OCA Answer at 3-4.

Contrary to the OSBA’s contention that the Commission violated “legal concepts of gradualism and rate shock,” the OCA asserts that the Commission’s decision on allocation of revenues at the Company’s proposed increase built on the resolution of a number of issues contested by the OSBA, coupled with the exercise of Commission discretion. OCA Answer at 4 (citing *January 2024 Order* at 127-49).

Lastly, the OCA argues that, although it maintains its contention that the OSBA has not established cause for the Commission to grant its request for reconsideration, to the extent that any remedy is granted, it should be limited to adjusting usage rates so that the increase for Columbia and Marietta Industrial (only) customers on a consolidated basis is reduced to 2.0 times the system average. The OCA insists that the

¹¹ The Commission denied the OSBA’s Exception Nos. 1 and 2 that concerned the Company’s cost of service methodology, and thereafter, denied the OSBA’s Exception No. 3, after consideration of the ALJs’ control of the development of the evidentiary record related to the COSS and COSS-related principles, the provision of due process, and the respective positions of the Company, the OCA, and the OSBA on the weight to be afforded a COSS relative to other principles, such as the OCA’s concern for gradualism and affordability. OCA Answer at 4-5 (citing *January 2014 Order* at 121-27, 134-43). Regarding the OSBA’s concerns as to revenue allocation, the Commission considered and denied the OSBA’s Exception Nos. 4 and 5. OCA Answer at 5-6 (citing *January 2024 Order* at 143-49). As to the Commission’s resolution of the contested question of how to scale back the Company’s proposed rates at a lower allowed revenue requirement, the OCA points out that the Commission did consider, and rejected, the OSBA’s scale back position and opposition to the OCA’s proposal. OCA Answer at 8-9 (citing *January 2024 Order* at 156-61).

customer charges presented in the Company's compliance filing for all classes should be unchanged. OCA Answer at 10-11.

C. Disposition

On review, we find that the OSBA has failed to proffer any new and novel arguments with respect to this issue. To the contrary, we find that the OSBA has simply restated arguments that we have already considered and disposed of in our *January 2024 Order*. As indicated by the OCA, our *January 2024 Order* considered each of the OSBA's six Exceptions to the Recommended Decision, as well as the Replies thereto, all of which related to rate structure issues.

Specifically, in our consideration of the OSBA's Exception No. 5, objecting to the ALJs' conclusion that the existing differentials among the Company's general metered service (GMS) rate tiers are significant and should be modified, we acknowledged the OSBA's concern for the rate impact (under the Company's proposed revenue increase and rate design) on larger consumption customers in the second and third tier block. *See, January 2024 Order* at 145-47; OSBA Exc. at 10 (citing R.D. at 71-72). Within the construct of the Company's rate design and full revenue increase, we considered the impact of consolidation and rate allocation by rate tier, as customer class equivalent, on customers in the larger Columbia rate district and smaller Marietta rate district. *January 2024 Order* at 144-49. We considered principles of cost causation in tandem with second considerations of gradualism and affordability. *Id.* at 146. In evaluating the impact of the Company's proposed overall allocation of the full proposed increase, we considered a rate implementation metric limiting the maximum increase to any class to 2.0 times the system average increase and clearly considered the magnitudes of the impacts on each rate class, noting that the Industrial class would experience the largest increase at 2.5 times the system average increase. *Id.* at 145-46. Our *January 2024 Order* also stated that "[g]iven 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." *Id.* at 146.

Paragraphs 13 through 26 of the OSBA's Petition are directed at this particular portion of the *January 2024 Order*, which OSBA declares, if not considered, would enshrine a new "2.5 times standard" of "rate gradualism." Petition at ¶¶ 13-26.

Although the OSBA did not specifically raise the concept of gradualism in its Exceptions or in any previous stage of this proceeding, to address the OSBA's contention that the *January 2024 Order* enshrines a "New 2.5 Times Standard," we already considered and made clear that the *January 2024 Order* does not create a legal or other definitive standard for gradualism because there is no definitive standard. *See, January 2024 Order* at 146 ("there are no definitive rules for determining what kind of rate increase would violate the principle of gradualism").

We further invoked a rate implementation metric limiting the overall increase in *individual customer bills* to no more than two times the overall revenue increase granted. *See, January 2024 Order* at 147. In this regard, we noted the following:

In this instance, under the Company's proposed rates, the only bills that would exceed this threshold ($17\% \times 2 = 34\%$) are those of a typical commercial (65% increase) and industrial (64.4% increase) customer located in the Marietta rate district. However, as previously indicated, the three-tier volumetric rate structure proposed by Columbia is applicable to approximately 90% of the customers for which Columbia is requesting rate increases. Of this 90%, commercial and industrial customers located in the Marietta rate district

account for less than 1%. Therefore, we find that larger increases to such a small subset of customers to not be an unreasonable outcome, given the conflicting objectives of moving towards fully consolidated rates and maintaining gradualism in customer bill impacts, especially considering the fact that customers in the Marietta rate district have been paying less for the same service as provided to customers in the Columbia rate district for over ten years.

January 2024 Order at 147-48.

The remaining portion of the OSBA’s argument pertains to the calculation of rates, as effected by the *January 2024 Order*’s adoption of the OCA’s proposed customer charges and the corresponding shift of the resulting revenue deficiency to usage-based rates on a proportional basis, at the revenue requirement approved by the *January 2024 Order*; as opposed to the Company’s requested increase in annual revenues of \$999,900. As illustrated in Table 2, above, the OSBA contends that the “*New 2.5 Times Standard*” should not be compounded by adopting the OCA’s proposed rate design and scale back methodology, as is done by the *January 2024 Order*. Petition at ¶¶ 27-40.

First, our *January 2024 Order* acknowledged the interrelationship between our decision on how revenue should be allocated among the three tiers at the Company’s full revenue request and the Commission’s “adoption of the OCA’s proposed reductions to the Company’s proposed customer charge increase,” acknowledging that there would be a “corresponding shift of the resulting deficiency to usage-based rates on a proportional basis.” *January 2024 Order* at 144, 150-56. Although the OSBA proposed

a different level of changes to the customer charges, the OSBA did not except to the ALJs' recommendation, which we adopted in our *January 2024 Order*.¹²

Indeed, the OSBA did argue against adopting the OCA's proposed scale back methodology as part of its Exception No. 6,¹³ which we subsequently rejected in our *January 2024 Order*. See, *January 2024 Order* at 159-61. However, our *January 2024 Order* did acknowledged the interrelationship of the Commission's decision on revenue allocation at the full requested increase, adoption of a customer charge proposal different than the Company's and corresponding impact on volumetric rates, and how the scale back proposal adopted would impact volumetric rates.

¹² The ALJs recommended adoption of the OCA's proposed methodology for calculating customer charges. R.D. at 74-76. The ALJs determined that:

OCA's primary customer charge recommendation is sufficiently based upon cost of service principles and consideration of other sound principles of rate design and serves to moderate the increase in fixed monthly charges for Columbia and Marietta customers. OCA's analysis allows the most reasonable level of recovery of direct and indirect costs through the fixed customer charge.

January 2024 Order at 155-56 (quoting R.D. at 74-76). As stated in the *January 2024 Order*, we found that the OCA's analysis and customer charge proposal was adequately supported and "allows for the most reasonable level of recovery of direct and indirect costs through the fixed customer charge." *Id.* at 156.

¹³ We reviewed the OSBA's Exception No. 6 in which the OSBA reiterated:

the same argument from its Reply Brief that the OCA's scaleback methodology would assign a greater than proportional rate relief in a scale back to the Residential and Public customer classes, at the expense of the Commercial and Industrial classes. OSBA Exc. at 12-13 (citing OSBA R.B. at 11-12).

January 2024 Order at 158 (footnote omitted).

The relative scaled increase between the classes necessarily changes because the OCA's scale back is first applied to customer charges. As previously indicated, no Party excepted to the ALJs' recommendation that the Commission adopt the OCA's recommended customer charges. Because the customer charges are lower than proposed by the Company, the resulting revenue deficiency at the Company's requested revenue increase is accounted for by proportionately increasing the Company's proposed volumetric rates (which the ALJs also recommended that the Commission adopt). Then, under the OCA's methodology, as adopted by the *January 2024 Order*, both the customer charges and volumetric rates in that first step are proportionately scaled back to account for the difference between the approved revenue requirement and the Company's requested revenue requirement.

In our *January 2024 Order*, we took note of the OCA's explanation as to the importance of "maintaining a proper balance of fixed and volumetric revenue recovery" in this case due to the impact of rate unification on the Marietta rate district customer charges for 5/8" meter service, under the Company's requested revenue increase. *January 2024 Order* at 159.

Table 3, below, compares the monthly bill impacts to the average Columbia and Marietta rate district customers under the rate increase, as approved by the *January 2024 Order*, consistent with Columbia's compliance tariff:

Table 3: Comparison of the Monthly Bill Impact on the Average Customer

		Usage (Gallons)	Current	Proposed Increase		Increase per Compliance Filing	
<u>Columbia Rate District</u>							
5/8" meter	Residential	3,800	\$37.67	\$4.56	12.1%	\$4.25	11.3%
1" meter	Commercial	28,500	\$149.07	\$17.39	11.7%	\$22.50	15.1%
4" meter	Industrial *	165,000	\$769.50	\$125.48	16.3%	\$125.16	16.3%
5/8" meter	Public Authority	1,600	\$21.83	\$4.51	20.7%	\$2.99	13.7%
<u>Marietta Rate District</u>							
5/8" meter	Residential	3,800	\$32.57	\$9.66	29.7%	\$9.35	28.7%
1" meter	Commercial	28,500	\$100.87	\$65.59	65.0%	\$70.70	70.1%
4" meter	Industrial *	165,000	\$544.42	\$350.56	64.4%	\$350.24	64.3%
5/8" meter	Public Authority	1,600	\$20.38	\$5.96	29.2%	\$4.44	21.8%
* An error in the Company's calculation of a typical Industrial customer bill has been corrected for accuracy. See , Columbia Exh. DF-9RJ (8/25 Rejoinder); Columbia's 1/25/24 Compliance Filing.							

In evaluating the impact of the Company's rate increase, consistent with its compliance tariff, we consider, as similarly done in our *January 2024 Order*, a rate implementation metric limiting the overall increase in *individual customer bills* to no more than two times the overall revenue increase granted. Similar to the result highlighted in our *January 2024 Order*, under the Company's compliance tariff rates, the only bills that would exceed this threshold ($16.5\% \times 2 = 33\%$) are those of a typical commercial (70.1% increase) and industrial (64.3% increase) customer located in the Marietta rate district. See, *January 2024 Order* at 147. And, as previously indicated, Columbia's three-tier volumetric rate structure is applicable to approximately 90% of the customers for which Columbia has requested a rate increase. Of this 90%, commercial and industrial customers located in the Marietta rate district account for less than 1%. See, *January 2024 Order* at 147-48. Therefore, we remain of the opinion that larger increases to such a small subset of customers do not result in an unreasonable outcome, given the conflicting objectives of moving towards fully consolidated rates and maintaining gradualism in customer bill impacts, especially considering the fact that

customers in the Marietta rate district have been paying less for the same service as provided to customers in the Columbia rate district for over ten years.

On review of the above, we conclude that Supplement No. 125 complies with, and is consistent with, our *January 2024 Order*. We further find that the OSBA Petition neither raises new or novel arguments, nor demonstrates any consideration that has not previously been heard or that was overlooked by our prior Opinion and Order. Consequently, we conclude that the OSBA Petition asserts no persuasive reason to exercise our discretion to reconsider our *January 2024 Order*. Therefore, we shall deny the Petition.

IV. Conclusion

Based on our review of the record, the Parties' positions, and the applicable law, we shall deny the OSBA's Petition for Reconsideration, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Petition for Reconsideration, filed by the Office of Small Business Advocate on February 2, 2024, relative to the Opinion and Order entered herein on January 18, 2024, at Docket No. R-2023-3040258, is denied, consistent with this Opinion and Order.

2. That the record in this proceeding be marked closed.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: March 14, 2024

ORDER ENTERED: March 14, 2024