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September 9, 2010

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

RE: Natural Gas Distribution Companies and the Promotion of Competitive Retail Markets
Docket No. L-2008-2069114

Dear Ms. Chiavetta:

Enclosed for filing please find the original and sixteen (16) copie of the Comments of Columbia Gas of Pennsylvania, Inc. for filing in the referenced matter.

Please file the original and fifteen copies and return the extra copy, filed stamped, in the self-addressed enclosed envelope provided. Should you have any questions concerning this matter, please call me at 724.416.6355 or e-mail me at tjgallagher@nisource.com.

I thank you for your assistance.

Very truly yours,

Theodore J. Gallagher

enclosures

cc: David E. Screven
Richard Wallace

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SEP 09 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Natural Gas Distribution Companies and the Promotion of Competitive Retail Markets	:	**Docket No. L-2008-2069114**

COMMENTS OF COLUMBIA GAS OF PENNSYLVANIA, INC. TO ADVANCED NOTICE OF FINAL RULEMAKING ORDER

A. INTRODUCTION

Columbia Gas of Pennsylvania, Inc. ("Columbia" or "the Company"), by and through its attorneys, hereby submits its written comments to the Commission's Advanced Notice of Final Rulemaking (ANOFR) Order entered on August 10, 2010 in the captioned proceeding. In the ANOFR Order, the Commission seeks public comment regarding its revisions to proposed regulations governing the relationships between Natural Gas Distribution Companies (NGDCs) and Natural Gas Suppliers (NGSs) which sell, or seek to sell, natural gas to end users on NGDC distribution systems. The revisions that are discussed in the ANOFR Order, as reflected in Annex A thereto, are based upon various comments filed by interested parties[1] and the Independent Regulatory Review Commission to the proposed rulemaking issued in this matter on March 27, 2009, and published in the *Pennsylvania Bulletin* on July 11, 2009.

At the outset, Columbia commends to the Commission's attention and consideration the comments submitted by the Energy Association of Pennsylvania ("EAP"), particularly EAP's discussion of matters that Columbia does not address in these comments. In addition to EAP's

[1] Columbia filed its comments on August 25, 2009, and joined in the comments filed by the Energy Association of Pennsylvania (EAP).

Comments on those issues, Columbia submits its own Comments in order to focus on issues that are of particular concern to it.

B. BACKGROUND

Columbia provides NGDC sales and transportation services to approximately 413,000 customers in 26 counties in western, central, and south-central Pennsylvania, subject to the Commission's regulatory oversight. Columbia implemented a pilot CHOICE program[2] in 1995, which provided an opportunity for its residential and small commercial customers to buy their natural gas from a variety of competitive NGSs. Between 1995 and 2000, Columbia, while working closely with participating NGSs, made many revisions to the program to make it more palatable to the NGSs, including capacity assignment, consolidated billing, and purchase of receivables with the ability to terminate for non-payment of NGS gas supply costs. Columbia's CHOICE program became a permanent program with limited changes following the adoption of Pennsylvania's Natural Gas Choice and Competition Act, 66 Pa.C.S. §§ 2201-2212 (the "Choice Act").[3]

On March 31, 2009, Columbia voluntarily filed its "Petition of Columbia Gas of Pennsylvania, Inc. for Approval to Voluntarily Implement a Modified Purchase of Receivables Program Pursuant to SEARCH Filing Requirements and Interim Purchase of Receivables Guidelines," Docket No. P-2009-2099333 ("Columbia's Proposed POR"), in accordance with

[2] Customer CHOICE[SM] is a service mark of Columbia Gas of Ohio, Inc and its use has been licensed by Columbia Gas of Pennsylvania, Inc. CHOICE[®] is a registered mark of Columbia Gas of Ohio, Inc. and its use has also been licensed by Columbia Gas of Pennsylvania, Inc.

[3] *See Re: Columbia Gas of Pennsylvania, Inc.*, Docket No. R-00994781, 93 PA. P.U.C. 375 (Order entered October 18, 1999).

the Commission's SEARCH Order and Interim POR Guidelines[4]. Columbia currently offers a purchase of receivables ("POR") program on a voluntary basis as part of its CHOICE program. Under its current POR program, Columbia is unable to terminate service for non-payment of purchased receivables as a result of Commission orders issued following the enactment of the Natural Gas Choice and Competition Act, 66 Pa.C.S. §§ 2101, et seq. The inability to terminate service for non-payment of purchased receivables substantially increases Columbia's risk that a customer will not pay the NGS receivables purchased by Columbia. Through its current POR program, Columbia offers to purchase receivables at a 5% discount rate, which compensates Columbia for this increased risk. On September 2, 2010, the Commission approved a Joint Petition for Settlement of All Issues in Columbia's Proposed POR, which will take effect on June 2, 2011. Among other things, as approved, Columbia's modified POR will enable Columbia to terminate for the full amount of purchased receivables and to require full payment for reconnection in accordance with the service termination provisions of Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations. The discount rate for purchased receivables under Columbia's modified POR will be based upon Columbia's experienced uncollectible accounts expense ratio as established in its most recent base rate proceeding.

As discussed below, in several respects, the rules proposed in the ANOPR conflict with features of the program that the Commission approved on September 2, 2010 in Columbia's Proposed POR Proceeding. These differences may result in significant administrative, programming, and reprogramming costs that could negatively impact Columbia, the NGSs operating on Columbia's system, and their mutual customers.

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[4] In its September 11, 2008 Order in the *Investigation into the Natural Gas Supply Market: Report on Stakeholder's Working Group*, Docket No. I-00040103F0002 (September 11, 2008) ("*SEARCH Order*") the Commission directed NGDCs to voluntarily file interim POR programs, pending the rulemaking at issue. On December 11, 2008, the Commission extended the deadline for NGDCs to voluntarily file POR programs until March 31, 2009.

C. COMMENTS

1. Price to Compare (§62.223)

a. Gas Procurement Costs

The Commission proposes to require NDGCs to file tariff revisions that will identify natural gas procurement costs and remove those costs from distribution rates. As proposed in the ANOPR, those costs would shift to the NGDC's price to compare. (ANOFR Order at p. 16) The Commission's proposal in this regard continues to ignore the fact that NGDCs, in administering Choice programs, incur costs that are solely attributable to serving NGSs. These costs would be incurred with or without an NGDC's SOLR obligation. Indeed, even if an NGDC were to relieve itself of its SOLR obligation by exiting the merchant function, that NGDC would still incur costs that are solely attributable to making its system work for NGSs. Those costs include, but are not limited to, flow management, scheduling, communication with NGSs, balancing, banking, issuing operational orders, processing customer enrollments and de-enrollments, in addition to the extensive functionality necessary to provide consolidated billing services, process NGS rates and purchase NGS receivables on the NGDC's system. Since those costs would exist even for an NGDC that no longer procures gas, they should not be borne by non-shopping customers. Rather, just as the Commission is requiring NGDCs to shift all gas procurement costs over to the price to compare so that shopping customers do not financially support sales service customers, the regulations should also provide for NGDC direct billing to NGSs for costs that are attributable to the services provided solely for the benefit of NGSs by NGDCs and currently paid for by by both sales service and shopping customers through their distribution rates. The NGSs could then factor those costs into their "price to compare". Otherwise, non-

shopping customers will subsidize costs that are incurred exclusively to serve shopping customers and, therefore, discriminate against non-shopping customers.

Columbia's customers currently enjoy the benefits associated with the gas procurement expertise of NiSource Corporate Services' Energy Supply Services department. Columbia shares that expertise with four other natural gas distribution utilities in the NiSource family of companies. While the Commission's proposed requirement to remove all commodity procurement-related costs from base rates will be difficult and costly for a stand-alone NGDC, for a company like Columbia that shares its resources with other regulated utilities, the cost and difficulty are sure to be enormous and, in Columbia's estimation, the benefits to be gained from the requirement will not justify the costs and will only increase expense borne by Columbia's customers.

b. Quarterly Adjustments

Columbia agrees with the Commission's deletion of the requirement that NGDCs adjust their price to compare on a monthly basis. Columbia also supports, in part, the concept of quarterly reconciliation adjustments, but only to the extent that such an adjustment is authorized under the Public Utility Code[5], and would not create additional price volatility for a particular NGDC. Moreover, while the Commission states in the ANOFR Order that it will "direct NGDCs to file tariff revisions that provide for quarterly reconciliation adjustments to their gas cost rates", Annex A to the ANOFR Order contains no language to that effect. If the Commission intends to require such a tariff filing, Columbia submits that it should publish proposed regulations to that effect and provide an opportunity for public comment.

[5] Unlike the quarterly adjustments permitted for an NGDC's C-Factor that are authorized under 66 Pa.C.S. § 1307(f)(1)(ii), there is no explicit provision in Section 1307(f) that permits quarterly E-Factor adjustments.

The Commission's discussion of its proposal to "direct NDGCs to file tariff revisions that provide for quarterly reconciliation adjustments to their gas cost rates" as a means "to avoid the potential for large positive or negative reconciliation adjustments when a customer switches to an alternative supplier" (ANOFR Order at p. 17) seems to assume that such a customer no longer pays the E-factor once they switch. That assumption ignores the migration rider established under 66 Pa.C.S. § 1307(f)(6), which requires that "customers transferring from sales to transportation service be subject to the over-or-under collection adjustment . . . for an appropriate period[.]" On Columbia's system, switching customers pay the E-factor for one year after they leave SOLR service. Thus, the departure of shopping customers should not result in the potential for large positive or negative reconciliation adjustments that the Commission appears to assume. Nonetheless, even with a migration rider in place, quarterly reconciliation adjustments would be beneficial for Columbia and its customers because it would enable the Company to manage over/under collections better on a proactive basis. Thus, one would expect to see decreased volatility from year to year in Columbia's E-Factor when annual Compliance Filing is made. In turn, this will allow for a more accurate price signal for all of Columbia's customers.

However, Columbia recognizes that this may not necessarily be true for all Pennsylvania NGDCs. Accordingly, where quarterly reconciliation adjustments would result in increased pricing volatility, an NGDC should be relieved of this requirement.

c. Merchant Function Charge

Columbia supports the proposed Merchant Function Charge regulations. Columbia has already unbundled the gas cost portion of its uncollectible costs and included such costs in the price to compare pursuant to a settlement provision that was approved on a pilot basis in Columbia's 2008 base rate proceeding, Docket No. R-2008-2011621, and which was approved

on a permanent basis in the settlement of Columbia's most recent base rate proceeding, Docket No. R-2009-2149262. Although not identified as a "Merchant Function Charge", Columbia believes that its current methodology complies with the proposed regulations, but for the quarterly updates, which Columbia fully supports.

2. Purchase of Receivables (§62.224)

In the ANOFR Order, the Commission made note of National Fuel Gas Distribution Company's concern about allowing NGSs to "cherry pick" customers based upon credit risk, and stated that the final regulations "will direct that an NGS must include all of its accounts receivable related to commodity sales in the POR program[.]" (ANOFR Order at p. 25) Moreover, the Commission stated that "an NGS will be required to accept all customers without using a credit check or requiring an additional security deposit." (*Id.*) However, the proposed regulations in Annex A of the ANOFR Order do not contain provisions that require an NGS either to include all of its accounts receivable related to commodity sales in the POR program or to accept all customers. The proposed final regulations should be amended to include such provisions.

Columbia agrees with the Commission's conclusion that "requiring NGSs participating in POR programs to use consolidated billing from the NGDC is a prudent and necessary step." (*Id.* at p. 24). Columbia also agrees with limitation of the scope of purchased receivables to gas supply charges embodied in the revisions to the first sentence of proposed § 62.224(a)(2). However, Columbia submits that the new proposed language in § 62.224(a)(2) which provides that "An NGDC SHALL purchase receivables . . ." implies that a POR program is mandatory,

which is a step that the Commission has chosen not to take, at least for the time being.[6] (*Id.* at p. 30). Columbia submits the following alternative language for the first sentence of § 62.224(a)(2) would properly limit the scope of purchased receivables under a voluntary POR: "An NGS may sell receivables only comprised of basic natural gas supply service and may not sell other receivables that constitute non-basic products and service sold in conjunction with, or in addition to, basic natural gas supply service."

Columbia is concerned that the exceptions to the consolidated billing requirement as proposed in § 62.224(a)(2)(i) and (ii) are confusing and may provide a loophole that the Commission may not have intended. Specifically, as currently worded, both of the exceptions would require an NGDC to purchase receivables that it does not bill, which would essentially gut the protections afforded to the NGDC by the discount rate applied to purchased receivables and by the ability to terminate for non-payment of purchased receivables. In particular, the second exception may permit an NGS that sells a non-basic service to bill separately for BOTH basic and non-basic services, while selling its receivables for basic service to the NGDC. If an NGS's supply charges are not itemized on a customer's bill, an NGDC that has been required to purchase that receivable will not be able to avail itself of credit and collection measures in the event the charges are unpaid. Simply put, an NGDC cannot seek service termination for an NGS charge that has not appeared on the customers NGDC-issued bill. If the proposed exceptions were designed to allow an NGS to participate in a POR program by selling so much of its receivables as is attributable to basic services for which the NGDC can bill and collect, while

[6] Columbia disagrees with the Commission's conclusion that it can mandate POR programs. Columbia's current POR program, as well as the modified program that the Commission approved on September 2, 1010 in Docket No. P-2009-2099333, are voluntary. However, since the Commission has not directed that mandatory POR programs be implemented, the issue does not appear to be ripe for challenge in this proceeding, and Columbia will not address it in detail in these comments. However, Columbia reserves the right to address this issue in the future, whether in this proceeding or in another matter.

leaving the NGS to bill separately for non-basic service to the same customer, the proposed language should be amended. Columbia submits that its proposed revision to the first sentence of § 62.224(a)(2), as discussed above, achieves that purpose by properly narrowing the scope of the receivables that an NGS may permissibly sell to an NDGC under a POR program. In any event, the proposed regulation should be amended to clarify that an NGDC will not be required to purchase any gas commodity receivables for which it does not bill the customer.

3. Capacity (§62.225)

In response to IRRC's observation that Section 62.225 is essentially repetitive of 66 Pa.C.S. § 2204(d), and the IRRC's statement that the Commission should either explain the need for Section 62.225 or delete it in its entirety, the Commission states that it "declines to revise or delete this proposed section of the regulation." (ANOFR Order at p. 31) However, in Annex A to the ANOFR Order, there are proposed revisions which, in Columbia's view, are legally unsupportable and operationally unwise.

In revising Section 62.225, the Commission proposes to add language that would make this regulation applicable to "NEW OR RENEWED contracts for firm storage or transportation capacity" that are addressed in 66 Pa.C.S. § 2204(e). The Commission also proposes to make capacity release, assignment, or transfer mandatory by inserting the word "shall" into the regulation in lieu of "may". While 66 Pa.C.S. § 2204(e) employs the word "shall", under the statute the requirement to offer new or renewed capacity to NGSs or large volume commercial and industrials only arises "to the extent such capacity is not needed to meet the [NGDC's] least-cost fuel procurement and other applicable standards pursuant to [Title 66.]" Columbia suggests that proposed Section 62.225 in Annex A to the ANOFR Order be removed, as it conflicts with

the statute. In the alternative, the revisions to Section 62.225 in Annex A to the ANOFR Order should be rejected.

Columbia is concerned about the Commission's determination "that the assets of gas pipeline and storage capacity should follow the customers of each utility, regardless of where they purchase their natural gas supply." (ANOPR at pp. 31-32) That determination is at odds with the flat daily delivery requirement of Columbia's Choice program. Columbia's system is very complex, with over 370 interstate pipeline receipt points, numerous local gas receipt points, and in excess of 1675 main line tap customer delivery points. Columbia directly receives supplies from six interstate pipelines. Additionally, Columbia utilizes three upstream pipelines that together create numerous transportation path requirements in order to provide reliable gas service. Moreover, Columbia only releases capacity on Columbia Transmission or Columbia Gulf and the Company's balancing fee is designed such that all customers, regardless of their geographic location or whether they are shopping or non-shopping, pay the same level of demand costs. This enables Columbia to operate its highly complex system in the simplest feasible manner for NGSs, without SOLR customer subsidization of Choice participants or vice-versa.

Requiring that pipeline and storage capacity follow the customers would impose an untenable obligation upon Columbia and the NGSs operating on its system, since each of the numerous transportation paths and balancing fees that are specific to those paths would have to be created, assigned, and utilized each day. That process is completely avoided by the simple retention of the operational characteristics of Columbia's existing Choice program design

Even without the operational difficulties associated with requiring that capacity follow the customers, implementation of such a policy is inadvisable because it will encourage NGSs to

focus upon obtaining customers in locations that are served through lower priced upstream assets. This will leave remaining customers with the burden of paying for higher priced capacity. While the Commission maintains that it wants "to ensure that useable capacity is released to marketers at fair and equitable rates, not the most expensive and least usable capacity", Columbia respectfully submits that the Commission should be equally concerned about preventing the cherry picking of least cost, most useable capacity.

4. NGDC Costs (§62.226)

Columbia agrees with the deletion of proposed Section 62.226 for the reasons discussed in the ANOFR Order. However, while "the cost of 'competition related activities' is not defined and is too broad and vague of a term" (ANOFR Order Order at p. 33), Columbia submits that an NGDC's incremental costs to comply with these new regulations is not a broad or vague concept, and the Commission should provide for recovery of those costs. Any such one time or ongoing costs should be borne by the NGSs and their customers since those costs will not have been incurred but for the existence of Choice and these new regulations to serve that segment of the industry. Moreover, Columbia submits that the Commission establish a mechanism for NGDC recovery, through fees charged to NGSs, of incremental costs related to billing services designed, implemented and rendered by an NGDC on behalf of an NGS, without any cost impact upon non-shopping customers, pursuant to 66 Pa.C.S. § 2205(c)(3).

5. Columbia's Approved POR Program

On September 2, 2010, the Commission approved a Joint Petition for Settlement of All Issues in Columbia's Proposed POR in Columbia's *Petition for Approval to Voluntarily*

Implement a Modified Purchase of Receivables Program Pursuant to SEARCH Requirements and Interim Purchase of Receivables Guidelines, Docket No. P-2009-2099333 (Columbia Modified POR). Columbia filed that Petition pursuant to the Commission's September 11, 2008 Order in Docket No. I-00040103F0002, and the subsequent December 19, 2008 Interim Guidelines Order (Docket Nos. M-2008-2068928 and I-00040103F0002). In order to afford the Company sufficient time to make necessary system changes to implement its revised POR program, the tariff revisions agreed to by the parties in the settlement of Columbia's modified POR will take effect on June 2, 2011. There is no specific term established for the program. Consequently, once the final form of the regulations at issue in this matter become effective, Columbia will have to update its POR program within 24 months to file a tariff that conforms to those regulations. (ANOPR Order at pp. 30-31).

As currently proposed, Columbia's modified POR which will take effect in June, 2011 differ from the proposed regulations in several respects. A non-exhaustive list of those differences includes: (1) POR Discount: Under Columbia's settlement, the discount is fixed and is based upon Columbia's experienced uncollectible accounts expense ratio established in its then most recent base rate proceeding, plus an administrative adder of 0.59% that will be eliminated once actual costs of establishing the new POR program are recovered; under the ANOFR Order, the discount would be calculated based upon uncollectibles associated with NGS' customer and would be subject to change, based upon periodic updates filed by the NGDC; (2) Consolidated billing requirement for POR participation: Under Columbia's settlement, it is required for participation in POR, with no exceptions; under the ANOFR Order, it is also required for participation in POR, but with exceptions; (3) Consolidated billing versus dual billing: Under Columbia's settlement, consolidated billing is required for all of an NGS's

residential customers but, effective March 2, 2012, an NGS may bill separately for some of its commodity sales for small commercial accounts (for which Columbia will not purchase receivables); under the ANOFR Order, per the discussion on page 25, an NGS will be required to include all of its accounts receivable related to commodity sales in the POR program.

Columbia will incur information system and administrative costs to comply with the recently-approved settlement in its Modified POR. After that, Columbia will again incur such costs to comply with the new regulations that result from this rulemaking, although it is not clear that the new changes will promote competitive retail markets on Columbia's system any better than the POR program that Columbia and the participants to its Modified POR proceeding have fashioned by way of negotiation and compromise. Accordingly, Columbia submits that the regulations should be amended to provide some leeway for an NGDC that operates a Commission-approved POR to continue to operate that program if the program effectively ensures that retail consumers of natural gas are able to choose among natural gas suppliers on reasonable and non-discriminatory terms, without having to adhere to the proposed 24-month sunset provision.

6. Response to Vice Chairman Christy's Statement

Columbia submits that the comments above address each of the issues for which Vice Chairman Christy sought commentary in his Statement in this matter at the July 29, 2010 Public Meeting, except for his final inquiry regarding customer information. In response to that inquiry, Columbia agrees that customers would benefit from access to better information to make an informed decision as to whether they should switch to an alternative supplier. Columbia submits that this information should be provided by the Commission. Determination of the scope and

format for such information would be appropriate for further proceedings in which all interested parties would have the opportunity to participate.

D. CONCLUSION

Columbia appreciates the Commission's continued efforts to promote the statutory goals of the Natural Gas and Competition Act to foster competition in the natural gas market in Pennsylvania. Columbia further appreciates the opportunity to participate in those efforts, and to provide its comments regarding the ANOFR Order. Columbia submits that the revision suggested in its comments will further the goals of fostering competition while, at the same time, maintaining the safety and reliability of natural gas distribution service to retail gas customers. 66 Pa.C.S. § 2203(1),(2), and (3). Columbia looks forward to continued participation in this matter with all stakeholders.

Respectfully submitted,

COLUMBIA GAS OF PENNSYLVANIA, INC.

By: _____

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Its Attorneys

Dated: September 9, 2010

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