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August 22, 2011

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Pennsylvania Public Utility Commission, Office of Consumer Advocate, Office of Small Business Advocate, Columbia Industrial Intervenors, The Pennsylvania State University, Pennsylvania Communities Organizing for Change d/b/a ACTION United, Nettie Pelton and Carol Collington, James Landis, Marie Weaver, Margaret Sentz, Albert Jochen, Patsy Orlando, Maureen A. Doerr-Roman, and Shipley Energy Company, Dominion Retail, Inc., Interstate Gas Supply, Inc., v. Columbia Gas of Pennsylvania, Inc. - Docket Nos. R-2010-2215623, C-2011-2224941, C-2011-2224985, C-2011-2227004, C-2011-2230067, C-2011-2232186, C-2011-2224944, C-2011-2225050, C-2011-2225828, C-2011-2225878, C-2011-2227222, C-2011-2231015

Pennsylvania Public Utility Commission, Office of Small Business Advocate, Office of Consumer Advocate, v. Columbia Gas of Pennsylvania, Inc. - Docket Nos. R-2010-2201974, C-2010-2208133 and C-2010-2208503 (Consolidated)

Dear Secretary Chiavetta:

Enclosed, for filing, are the Exceptions of Columbia Gas of Pennsylvania, Inc. in the above-referenced proceedings.

Copies have been provided to the persons as indicated on the certificate of service.

Respectfully Submitted,

Michael W. Hassell

MWH/jl
Enclosures

cc: Honorable Katrina L. Dunderdale
Certificate of Service
David Huff
Edward Berzonsky
Brent W. Killian

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, et al.	:	Docket Nos. R-2010-2215623
	:	C-2011-2224941
	:	C-2011-2224985
	:	C-2011-2227004
	:	C-2011-2230067
	:	C-2011-2232186
	:	C-2011-2224944
	:	C-2011-2225050
	:	C-2011-2225828
	:	C-2011-2225878
	:	C-2011-2227222
	:	C-2011-2231015
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	

Pennsylvania Public Utility Commission, et al.	:	Docket Nos. R-2010-2201974
	:	C-2010-2208133
	:	C-2010-2208503
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	

EXCEPTIONS OF
COLUMBIA GAS OF PENNSYLVANIA, INC.

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I. BACKGROUND

On January 14, 2011, Columbia Gas of Pennsylvania, Inc. ("Columbia") filed the above-captioned 2011 Base Rate Filing, together with Supplement No. 163 to its Tariff Gas – Pa. P.U.C. No. 9 ("Supplement No. 163"), responses to Pennsylvania Public Utility Commission ("Commission") filing requirements and standard data requests, and supporting direct testimony and exhibits. In the 2011 Base Rate Filing, Columbia proposed new tariff rules and regulations and proposed increased rates designed to produce an overall revenue increase of approximately $37.8 million annually based upon the *pro forma* level of operations for the twelve months ended September 30, 2011.

Supplement No. 156 to Tariff Gas – Pa. P.U.C. No. 9 ("Supplement No. 156" or "BTU factor proceeding"), which proposed a BTU adjustment factor to Mcf billing, was filed with the Commission on September 29, 2010 at Docket No. R-2010-2201974, and was suspended to May 27, 2011 by Commission Order dated November 19, 2010 at R-2010-2201974. On January 20, 2011, Columbia filed a Motion to Consolidate Supplement No. 156 with the base rate filing. Further, Columbia agreed to voluntarily extend the effective date for Supplement No. 156 to coincide with the Company's Base Rate Filing.

On January 24, 2011, Administrative Law Judge Katrina L. Dunderdale (the "ALJ") issued an order consolidating the BTU factor proceeding with the 2011 Base Rate Filing.

Complaints were filed by the Office of Small Business Advocate ("OSBA"), the Office of Consumer Advocate ("OCA"), Columbia Industrial Intervenors ("CII"), the Pennsylvania State University ("PSU"), and Pennsylvania Communities Organizing for Change d/b/a ACTION United, Nettie Pelton and Carol Collington ("PCOC"). A Petition to Intervene was filed by Dominion Retail, Inc., Shipley Energy Company and Interstate Gas Supply (collectively "NGS Intervenors"). In addition, several customers filed formal complaints.

On February 14, 2011, the Company filed with the Commission Supplement No. 164 to Tariff Gas Pa. P.U.C. No. 9 ("Supplement No. 164"). Supplement No. 164, issued February 14, 2011 with an effective date of March 15, 2011, suspended the proposed rates contained in Tariff Supplement No. 163 until March 18, 2011, to permit further time for the Commission to adopt its Investigation Order.

In an Order entered March 17, 2011, the Commission initiated an investigation of Columbia's proposed general rate increase. Supplement No. 163 was suspended by operation of law pursuant to Section 1308(d) of the Public Utility Code, 66 Pa.C.S. § 1308(d), for up to seven months or until October 18, 2011, unless permitted by Commission Order to become effective at an earlier date.

In accordance with the litigation schedule set at the Prehearing Conference held on March 23, 2011, various parties filed direct, rebuttal, surrebuttal and rejoinder testimony. In addition, two public input hearings were held.

On May 25, 2011, PCOC filed an Application for Issuance of a Subpoena to the Department of Public Welfare ("DPW").

On June 2, 2011, Columbia filed an unopposed Motion for Protective Order. On June 3, 2011, the ALJ issued a Protective Order for this consolidated proceeding.

By letter dated June 3, 2011, DPW submitted a letter response to PCOC's Application for Issuance of a Subpoena.

On June 6, 2011, Columbia and OCA filed letter responses to the PCOC Application for Issuance of a Subpoena. Also on June 6, 2011, PCOC filed a notice of withdrawal of its Application for Issuance of a Subpoena.

Active parties to the proceeding (hereinafter "Joint Petitioners") held numerous settlement discussions over the course of this proceeding. As a result of those discussions and the efforts of the Joint Petitioners to examine the issues in the proceeding, a settlement of all but two issues was achieved by the Joint Petitioners (the "Partial Settlement"), thereby negating the need for the scheduled evidentiary hearings on most issues. The Parties subsequently agreed to waive cross-examination on the two issues that remained in dispute. Therefore, the Joint Petitioners requested that the ALJ hold a hearing to allow for the introduction and admission into evidence of Columbia's filing, testimony and exhibits, testimony and exhibits filed by the other parties during the course of the proceeding, and to rule on admission of DPW's letter response to PCOC's subpoena. The hearing was held before the ALJ on June 10, 2011.

On August 10, 2011, the ALJ issued the Recommended Decision ("RD"). The RD recommends approval of the Partial Settlement. RD at 140. The RD also recommends that the Commission reject Columbia's proposed Levelized Distribution Charge ("LDC") for residential customers and instead adopt OCA's residential rate design recommendation, which would place the entire residential rate increase in the usage-based distribution rate.[1] Finally the RD recommends that Columbia's CAP-Plus program continue, with a caveat that Columbia cannot annualize the "Plus" portion of charges to CAP customers and deduct that annualized amount as a lump sum from Low Income Home Energy Assistance Program ("LIHEAP") grants received by a CAP customer.[2]

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[1] Under the Partial Settlement, the residential rate class is allocated a $12.7 million increase in revenues, inclusive of a $1 million increase in LIURP funding to be collected under Columbia's Rider USP – Universal Service Plan. Partial Settlement, ¶¶ 41, 54 and Appendix "A".

[2] As explained in these Exceptions, the RD errs in stating that Columbia deducts the annualized sum of "Plus" payments "off the top" of a customers' LIHEAP grant, and thus this portion of the recommendation is unnecessary.

Columbia files these Exceptions to the RD pursuant to 52 Pa. Code § 5.533 and the Secretarial Letter dated August 10, 2011. For the reasons explained below, Columbia respectfully requests that the Commission adopt Columbia's Exceptions and revise the RD accordingly.

II. EXCEPTIONS

Exception No. 1: The RD erred in recommending rejection of Columbia's LDC for residential customers. RD at 95-97.

Exception No. 2: The RD erred in recommending that Columbia's existing residential customer charge of $12.25 per month remain unchanged, and that the entire residential class rate increase be recovered through increased usage based distribution rates. RD at 95.

Exception No. 3: The RD erred in concluding that Columbia's current CAP-Plus program deducts any amount of "Plus" payments "off the top" of LIHEAP grants received by a CAP customer. RD at 134, 138.

III. ARGUMENT

A. Residential Rate Design and the LDC

1. Introduction

The LDC represents a major change from the customer charge/usage charge rate structure that the Commission traditionally has used to develop residential rate designs for gas utilities. The LDC would charge all residential customers a fixed monthly distribution charge to recover all distribution costs.[3] The usage-based distribution rate would be eliminated. Gas costs,

[3] Low income customers served under Columbia's CAP would continue to pay their CAP payment and would not be affected by the LDC. However, because Columbia's CAP customers, on average, have higher usage than the typical Columbia residential customer, the LDC rate design will reduce the current bill shortfall recovered under Rider USP. Columbia St. 12, p. 49.

unbundled uncollectible costs related to gas cost charges, and Rider USP charges to recover universal service costs would continue to be billed on a usage basis. Columbia St. 12, p. 35; Columbia St. 2, p. 22.

The RD recommends rejection of the LDC and provides limited analysis for the recommendation. RD at 95-97. This is not particularly surprising, because the LDC is a definite change from past Commission practice on residential rate design, and ALJs normally consider themselves bound to follow past Commission pronouncements on such matters. However, the LDC is primarily an issue of rate design. Questions of rate design are matters that are particularly within the Commission's expertise and discretion.[4] As such, the Commission should not extend the deference frequently given to RD findings to this recommendation on the LDC. The Commission should evaluate the record, briefs and exceptions carefully in considering Columbia's proposal to change the design of distribution rates for residential gas service customers.

Such independent review of the record, briefs and exceptions will reveal that the LDC is clearly justified and supported by the evidentiary record. That review will demonstrate the following:

- The LDC best aligns rates with cost incurrence.
- The LDC eliminates intra class subsidies of low use customers, where cost to serve is not lower just because their usage is low.

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[4] *Cup v. Pa. P.U.C.*, 556 A.2d 470, 473 (Pa. Cmwlth. 1989) ("We agree that the Commission has the expertise to establish rates and, further, that this power allows for flexibility"); *Peoples Natural Gas Co. v. Pa. P.U.C.*, 409 A.2d 446, 457 (Pa. Cmwlth. 1979) ("It is well settled that the establishment of a rate structure is an administrative function peculiarly within the expertise of the commission"); *See also Popowsky v. Pa. P.U.C.*, 869 A.2d 1144 (Pa. Cmwlth. 2005); *Sharon Steel Corp. v. Pa. P.U.C.*, 468 A.2d 860, 866 (Pa. Cmwlth. 1983); *Welch v. Pa. P.U.C.*, 464 A.2d 568, 575 (Pa. Cmwlth. 1983).

- The LDC will provide important signals to capital markets to invest in Pennsylvania's critical infrastructure, at a time when other states are adopting innovative methods to encourage capital investment.
- The LDC will align utility and customer interests in a cooperative effort to adopt cost effective energy efficiency measures.
- The LDC will reduce customer confusion by simplifying bills and reflecting gas commodity usage charges that tie to variable costs.

Although the LDC does represent a change in residential rate design approach, it is a change that is supported by the record and is right for the times. The Commission should take this opportunity to reaffirm its position as a leader in progressive utility regulation and adopt the LDC.

2. There Are a Number of Sound Reasons Favoring a New Approach to Residential Rate Design

a. The RD Failed to Recognize that the LDC Comports with the Principle that Rates Should be Aligned with Costs

The RD's recommendation regarding residential rate structure and the LDC makes no direct mention of the most important aspect of the LDC: The LDC aligns rates with the costs incurred to serve residential customers. RD at 95-97.[5] As the Pennsylvania Commonwealth Court recognized in *Lloyd v. Pennsylvania Public Utility Commission,* the polestar of ratemaking is the "cost of providing service."[6]

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[5] The RD provides a brief summary of Columbia's argument on this important point. RD at 77. However, the RD makes no mention of the unrebutted evidence submitted by Columbia demonstrating that the LDC best aligns rates with cost incurrence.

[6] *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010, 1020 (2006), appeal denied, 591 Pa. 676, 917 A.2d 1104 (2007).

The evidence submitted by Columbia to demonstrate that the LDC matches rates to cost incurrence is simple, compelling and unrebutted. Detailed explanations of the evidence are provided in Columbia's Main and Reply Briefs. Columbia MB, pp. 9-15; Columbia RB, pp. 4, 7-10. A summary of that evidence and argument is provided here.

With a slight exception for gas odorant, none of the Company's distribution-related costs increase as customers consume more gas. Columbia St. 2, p. 21. Furthermore, as Columbia explained, its delivery service costs do not vary materially from month to month, further demonstrating that usage variances do not drive distribution costs. Columbia St. 112-R, p. 27. These simple facts of cost causation are alone sufficient to conclude that usage-based distribution rates for residential customers fail to comport with principles of designing rates to match the manner in which costs are incurred.

The fact that costs do not vary with usage was further supported by Columbia's cost of service/rate design expert Mr. Russell Feingold.[7] As Mr. Feingold explained, a gas utility designs and installs a distribution system to meet customers' design day requirements. Columbia St. 2, p. 39. These distribution facilities include the city gate, mains, regulators, services and meters. Columbia St. 2, p. 39. Once installed, the costs are fixed and do not vary with the amount of gas consumed. Columbia St. 2, p. 39.

Mr. Feingold further explained that the system investment required to serve residential customers does not vary between residential customers by customer usage, because the design day requirements of residential customers can be satisfied by the minimum size pipe installed on Columbia's system. Specifically, Mr. Feingold analyzed the ability of a two-inch main to serve

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[7] Mr. Feingold has over 35 years of experience in utility regulation, and has testified in support of revenue stabilization mechanisms in a number of jurisdictions. Columbia St. 12, pp. 2-3.

residential customers.[8] Using the Company's average customer density, standard operating pressures and applying pipeline flow formulas, Mr. Feingold determined that a two-inch pipe would be capable of serving a customer with a design day requirement of 18.4 Mcf, which would translate into a customer with annual requirements of over 1,300 Mcf,[9] at a 20 percent load factor. Columbia St. 12, pp. 44-46. Thus, the smallest sized main that Columbia installs is effectively able to serve any residential customer. Thus, every residential customer, from the lowest to the highest annual and peak day usage, can be served by the same sized distribution system. This further supports Columbia's position that residential customer usage does not affect Columbia's cost to serve.[10]

The LDC best aligns residential rates with cost to serve. The LDC should be adopted in accordance with this basic rate design principle.

b. The Commission Should Consider the Effect of the LDC on Investment in Critical Infrastructure Replacement

Another factor not addressed in the RD's residential rate design recommendation is the need for Pennsylvania gas utilities to compete for investment dollars to fund critical infrastructure replacements.

The Commission is well aware of the need of many Pennsylvania gas utilities to replace aging cast iron and bare steel pipe ("CIBS"). According to a recent Commission-published report, Pennsylvania has 3,600 miles of cast iron and 9,000 miles of unprotected steel pipes. The

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[8] Two-inch main is the minimum, and most common, pipe size in Columbia's system. Columbia St. 12, pp. 44-46.

[9] In comparison, the average residential customer consumes 80.2 Mcf per year and Columbia's average CAP customer consumes 116.1 Mcf per year. Columbia St. 12 at 49.

[10] OCA's witness argued that "economic theory" and pricing in unregulated markets justifies recovery of fixed costs in commodity rates. OCA St. 5, pp. 29-34. These arguments seek to divert the Commission's attention away from the fact that no party offered evidence to dispute the point that there is no difference in cost to serve among residential customers based upon differences in usage. Moreover, Columbia rebutted OCA's arguments concerning economic theory and pricing in unregulated markets. Columbia RB, pp. 8-10.

Commission report estimates the replacement cost of these pipes to be $13 billion over a 20 year period. Pennsylvania Public Utility Commission, *Pennsylvania National Gas Trends and Developments*, p. 6 (February 2011). Columbia is currently in the midst of a multi-year program to replace approximately 1,900 miles of CIBS pipe in its distribution system. Columbia St. 9, p. 3. This replacement will require a substantial and ongoing need for capital, with Columbia spending over $86 million in 2011 alone.

But Pennsylvania gas utilities are not alone in the need to replace critical infrastructure. The U.S. Department of Transportation, Office of Pipeline Safety issued a preliminary report, wherein it noted that "it has been estimated that [infrastructure replacement] cost could exceed billions of dollars nationwide."[11] The significant need and expense associated with infrastructure replacement is evidenced by a number of recent state public utility commission decisions approving infrastructure replacement programs for other NGDCs across the country.[12] Further emphasizing this looming problem, the American Society of Civil Engineers' 2009 Report Card for American Infrastructure[13] identifies $2.2 Trillion in needed investment in the nation's infrastructure.

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[11] U.S. Department of Transportation, Pipeline and Hazardous Material Safety Administration, Office of Pipeline Safety, *The State of the National Pipeline Infrastructure, Preliminary Report*, p. 12, http://opsweb.phmsa.dot.gov/pipelineforum/docs/Long%20Version%20Preliminary%20Report%20on%20Infrastructure%20040711draftwDecadeCauseCharts.pdf (last assessed June 27, 2011).

[12] *Atlantic Gas Light Company's 2009-2012 Integrated System Reinforcement Program and Georgia Strategic Infrastructure Development and Enhancement Program*, 2009 WL 3184986, (Order entered October 6, 2009) (Total cost of the pipeline replacement plan for the years 2009 to 2012 estimated at $175.7 Million), *Order Instituting Rulemaking on the Commission's Own Motion to Adopt New Safety and Reliability Regulations for Natural Gas Transmission and Distribution Pipelines and Related Ratemaking Mechanisms*, Rulemaking 11-02-019 (Order Issued June 16, 2011) (California Commission considers rate treatment of "important but costly safety improvements," PG&E gathering and MAOP validation process estimated to exceed $100 million dollars prior to any infrastructure upgrades), *North Shore Gas Company and The Peoples Gas Light and Coke Company v. Illinois Commerce Commission*, 2010 WL 2375848 (June 2, 2010) (Commission approved a $45.28 million annual rider to recover costs for a program that would replace ductile iron/cast iron mains over a 50 year period).

[13] http://www.infrastrucrurereportcard.org

In this environment, where Columbia is competing with others for capital, utility creditworthiness is a heightened concern.[14] As Mr. Richard Cortright, Managing Director in the Utilities & Infrastructure Practice of Standard & Poor's Ratings Services, explained at the Commission's Technical Conference concerning the ARRA:

> [W]e as a rating agency will be closely focused on the various recovery mechanisms that regulators establish to enable utilities to recover their costs – in particular those costs over which they have little control – on a timely basis.
>
> * * *
>
> To the extent that a commission has established recovery mechanisms such as the various trackers discussed on this slide, as well as decoupling mechanisms, we would view a commission as being supportive of and attentive to the creditworthiness of a utility.

Columbia St. 2, p.17, *quoting* transcripts of ARRA Technical Conference, Commission Docket No. I-2009-2099811 (November 19, 2009), Tr. 99-100. Decoupling is positive from a credit rating agency perspective as it enables utilities to project cash flows more accurately and reduces earnings volatility. Columbia St. 2, p. 25.

Credit rating agencies' assessments of creditworthiness are important as a guide to debt and equity investors in determining risk of a company, and thus affect the cost of capital to be demanded for an investment. Columbia St. 2, pp. 16-17; Columbia St. 10, p. 13. More than twenty other states have adopted or are considering adopting decoupling/revenue stabilization mechanisms for their utilities. Columbia MB, pp. 20-22; Columbia RB, pp. 15-19. As a result, investors will demand substantial premiums to invest in a utility like Columbia, which currently recovers most of its residential customer revenues through usage-based charges, as compared to

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[14] Columbia St. 10, Appendix B, p. 1.

investing in a utility with an approved decoupling/revenue stabilization mechanism.[15] Columbia St. 2, p. 8. Further, if Columbia were to recover the total residential rate increase through usage based distribution rates, the percentage of the Company's fixed costs recovered through the customer charge will decrease, thus making Columbia worse off than prior to investing the $86 million and filing this rate case.

Therefore, for the reasons explained above and in Columbia's Main Brief, the Commission should consider investors' expectations and competition for capital in assessing whether to adopt Columbia's progressive LDC rate design for residential customers. Columbia MB, pp. 18-22.

c. The RD Fails to Align Utility and Customer Interests in Order to Advance Cost Effective Energy Efficiency Measures

The RD makes the following statement concerning the LDC and conservation:

> Particularly lacking in persuasion is the Company's contention it will not be sufficiently motivated to promote and utilize conservation measures unless it can charge all residential ratepayers based on a Straight Fixed Variable (SFV) rate design, which design would stabilize the Company's income stream. The Commission has proven it can sufficiently and successfully motivate utility companies to encourage conservation from ratepayers, even if the conservation measures result in cyclical and/or seasonal fluctuations in a utility's income stream.

RD, p. 96.

This statement fails to recognize that the current mechanism of recovering fixed costs through usage based rates unavoidably discourages utility interest in conservation. The record is undisputed that there is no incentive for a utility to encourage cost effective energy efficiency measures where fixed costs are recovered on a usage basis. As Columbia explained, it is discouraged from helping customers use energy more efficiently when it only leads to

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[15] Currently, Columbia recovers about 67% of its total residential non-gas charges through usage-based rates. See Exh. 103, Schedule 1.

underrecovery of distribution costs and the need for further rate relief. Columbia St. 2, pp. 27, 35.

Columbia was not alone on this record in pointing out that recovery of fixed costs through usage based rates discourages utilities from promoting energy efficiency measures. The OCA also acknowledged that usage based rates are a disincentive to utility interest in promoting conservation efforts:

> The OCA agrees that recovering all of its base rate costs through a fixed monthly charge could reduce any disincentive that the Company may have to promote conservation . . . .

OCA MB, p. 11. Similarly, the OTS rate design witness acknowledged that the current rate design provides a disincentive for utility promotion of energy efficiency. OTS St. 3, p. 48. The public input testimony of Mr. Carryer, a representative of a trade association of manufacturers/distributors of energy efficiency products, further acknowledged that the current usage-based distribution charge was a disincentive to encourage Columbia to support energy efficiency measures. Tr. 76.

The Commission should not choose the worn "command and control approach" to conservation efforts, but rather should move to a more cooperative and constructive approach between the utility and a customer. The RD's assertion that the Commission can "motivate" utilities to encourage conservation without aligning the utility's financial interest with the customers' interest advances an approach that is being abandoned by more progressive regulatory agencies. While the Commission may have the authority to direct utilities to undertake actions to drive reduced customer usage, forced conservation actions by utilities that only lead to an unending cycle of further rate cases is not the right solution. A new approach, aligning customers' and utilities' interests in adopting energy efficiency measures, is needed.

The American Recovery and Reinvestment Act of 2009 Pub. L. 111-5 ("ARRA") Section 410(a) recognizes that advancing energy efficiency is best achieved by an alignment of utility and customer interests:

> The applicable state regulatory authority will seek to implement . . . a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently . . . .

Recently, the Commission issued its Order concerning compliance with ARRA. *Compliance of Commonwealth of Pennsylvania with Section 410(a) of the American Recovery and Reinvestment Act of 2009*, Docket No. I-2009-2099881, Order entered August 1, 2011 ("*ARRA Order*"). In the *ARRA Order*, the Commission certified that its present practices and policies met the minimums required to state that it had a general policy to align utility financial incentives with helping customers use energy more efficiently. However, the Commission acknowledged that additional steps could be taken to better align utility and customer interests in helping customers to use energy more efficiently, and encouraged utilities to offer proposals in individual rate proceedings:

> Nevertheless, the Commission acknowledges that more can be done and, accordingly, we are open to consideration of the other programs and policies described in the body of this order in the context of individual rate proceedings, in which the details of any such programs and policies can be evaluated.

ARRA Order, p. 31. Among the programs and policies that the Commission identified in its order were different rate designs, including changes to the portion of fixed costs to be recovered through customer charges. (*ARRA Order*, pp. 20-23). In discussing the current structure of rate designs,[16] the Commission recognized that recovery of fixed cost through volumetric rates subsidizes low use customers. *ARRA* Order, p. 20. Columbia's evidence in this case

[16] The Commission indicated that current rate design was "loosely driven" by distinctions between "direct" and "indirect" customer costs. *ARRA Order*, p. 20.

unquestionably demonstrates that such subsidy does occur in the residential customer class, and results in rates that do not match cost incurrence.

At page 21 of the *ARRA Order*, the Commission does note that recovery of fixed costs through usage based rates will provide a benefit to customers that conserve. However, the *ARRA Order* does not examine the permanence of such conservation benefit. As Columbia conclusively demonstrated in this case, this benefit is a chimera – an illusion. When fixed costs are recovered on a usage basis, a customer's perceived conservation "savings" are distorted because the customer receives a bill reduction when there is no matching reduction to Columbia's distribution costs. As a result, a regulated entity like Columbia will underrecover its costs, contributing to the need to file for a rate increase. Columbia St. 2, p. 35. This results in a cycle of potentially inefficient conservation activities, rate cases, and customer disillusionment, as Columbia's witnesses Feingold and Kempic explained:

> Under volumetric rates, customers who invest in conservation see their expected benefits eroded by subsequent rate cases, where dollars are added to the commodity rates to offset the loss of fixed cost recovery resulting from reduced gas usage. This may encourage other customers to adopt conservation, but discourage additional conservation from early adopters. However, the cycle will continue as new investment in conservation is again eroded by subsequent rate cases. The net result is lower expected returns from conservation investment by customers. There is no efficiency result from volumetric rates. It is SFV rates that assure economic efficiency by sending optimal price signals to customers.

Columbia St. 112-R, pp. 20-21.

> Including recovery of fixed costs in volumetric distribution rates gives a false price signal to encourage conservation and ultimately is counterproductive to both the Company and customers. This approach leads to an ongoing cycle of future rate cases as fixed costs go unrecovered due to conservation. This leads to customer confusion and complaints, when, in future rate cases, the Company informs customers that one of the causes of the rate filing is reduced revenues from reduced customer consumption. Customers may conclude that conservation efforts serve no purpose if their efforts just lead to further rate increases.

Columbia St. 2, p. 35. As a result, continued recovery of fixed costs through usage based rates will deceive customers as to the true level of savings from conservation.

In addition, because costs are fixed, the dual goals of Section 410(a) – aligning utility financial incentives with customers' incentives to use energy more efficiently – are not achieved by rote adherence to traditional rate design. This is because the utility has no incentive to encourage usage reduction where fixed costs are recovered in usage charges, as the result is to perpetuate a cycle of temporary customer savings, followed by more frequent rate filings, followed by a new round of temporary savings, etc. This is ineffective at best, and can discourage customers from adopting effective, long term energy efficiency measures. Columbia MB, pp. 15-16. The better approach is to encourage customer and utility partnerships, by removing the utility's disincentive to encourage energy efficiency. This can be accomplished through adoption of the LDC.

The effectiveness of a committed effort of utility involvement in energy efficiency gains should not be understated. As Columbia explained, a coordinated utility/customer effort can be much more effective than individual customers acting alone:

> Comparing the annual average decline in total normalized residential consumption of 1.2% a year to the average annual reduction in consumption of 25% that Columbia achieves through its LIURP shows that involving the utility in energy efficiency efforts yields far better results than relying on price signals. As the local gas distribution company, we have a unique ability and opportunity to communicate with our customers through an established relationship, customer intake infrastructure and large scale customer program management. Simply put, if substantial and sustained energy efficiency improvements are the goal, price signals fail to compare with the results obtained by involving the Company in the process. The way to encourage the Company to become more involved in the process is to make it indifferent to the amount of gas customers consume. Columbia's proposed Levelized Distribution Charge will do just that.

Columbia St. 2, p. 38.

It is critical to recognize that a strong customer incentive to adopt cost-effective energy efficiency measures, producing true energy savings, will still exist after adoption of the LDC. Over 70% of a customer's usage-based bill currently is composed of purchased gas costs. Thus, under the proposed LDC, a customer will continue to achieve real savings of over $7.80 per Mcf for every Mcf reduction in consumption. Exhibit RAF-1.

For reasons explained above, and in Columbia's Briefs, the LDC will align utility and customer efforts in achieving true energy efficiency savings. Columbia MB, pp. 15-18; Columbia RB, pp. 10-15.

d. The Commission Should Consider Other Benefits From the LDC

There are other benefits to the residential LDC that were not mentioned in the RD. By aligning rates with the cost to serve, rate cases will be simplified, as issues such as weather normalization and sales forecasting are eliminated for the residential class. Columbia St. 12, p. 47. Second home subsidies, where gas is used on a part-time basis, will also be eliminated. OSBA St. 2, p. 32.

Finally, the residential LDC achieves bill simplicity and promotes customers' comprehension of the true cost to serve. These points were explained both graphically and textually by Columbia's witness Mr. Kempic:[17]

> Q. How does the current rate structure recover the company's cost of providing gas distribution service?
>
> A. Columbia recovers its costs and derives its revenue from both the fixed monthly customer charge . . . and the volumetric distribution charge . . . . The volumetric commodity charge recovers the cost of the gas itself . . . and Columbia does not earn a profit on the commodity component. This rate structure has been in place for

[17] Copies of the two graphics are attached to Columbia's Main Brief as Appendix A.

quite a long time, but it is still misunderstood by customers, as evidenced by the purchased gas cost complaints received in base rate cases and the base rate issues raised by customer complainants in purchased gas cost proceedings.

Q. Why do you believe it confuses customers?

A. This volumetric distribution charge rate structure is confusing because it bears no relationship to the manner in which a utility incurs costs to provide customers with gas distribution service. The volumetric distribution charge suggests to customers that the utility's costs to provide distribution service increase as the customer uses more gas, but that is simply not true. With the exception of the cost for gas odorant which increases as the customer uses more gas, none of the Company's distribution-related costs increase as customers consume more gas. While this has always been the case, the inappropriate volumetric distribution charge has mislead customers over the years so that customers now believe a gas utility's costs increase as the customers use more gas.

Q. Do you believe most customers care about how a gas utility recovers its costs?

A. Customers may not care about how a utility recovers its costs, but customers want bills that are easy to understand and they want to be treated fairly. [T]he bill presently contains three primary charges, one of which (the volumetric distribution charge) is unnecessary and as previously stated, bears no relationship to the manner in which the Company incurs its costs. Moving to a structure in which virtually all of the utility's costs are recovered through a flat monthly fee will simplify the bill by splitting it into two primary components: One to recover the company's costs of distribution service and the other to recover the cost of the gas consumed. . . . With a fixed monthly charge for distribution service, customers will be given a correct price signal regarding the company's cost of providing distribution service and customers will clearly see how much the gas commodity costs them each month. [C]ustomers will be given a simpler bill, which will contain accurate price signals regarding both the cost of distribution service and the cost of the gas commodity itself.

Columbia St. 2, pp. 20-23.

A change from usage-based to flat rate billing of distribution costs to residential customers should not be viewed as confusing. Residential customers already are accustomed to paying for many basic consumer services on a fixed monthly basis. These include:

- Local and long distance telephone service
- Cellular telephone service
- Cable and satellite service
- Internet access
- Home security
- Trash removal
- Automobile leases

Columbia St. 12, pp. 47-48.[18] Moreover, by eliminating usage based distribution charges, customers will have a clearer understanding of the "Price to Compare," and marketers' price offers, as these costs (and Rider USP charges) will be the only charges reflected on a usage basis.

All of these benefits also should be taken into account by the Commission in deciding whether to adopt the LDC.

3. The RD Reaches an Incorrect Conclusion Regarding Intra Class Subsidies and the LDC

The RD offers the following statement as a further basis to reject the LDC:

> Not only would Columbia Gas' proposal reduce ratepayers' incentive to control energy usage directly but it would also impact low volume consumers at a disproportionately greater level than higher volume consumers. Under this proposal, lower income individuals – who tend to reside in residences with less square footage which, concomitantly, require a lower volume of commodity – would pay proportionately more than would higher income individuals – who tend to reside in residences with greater square footage requiring a higher volume of commodity. To state the situation more bluntly, the poor people will be subsidizing the payment of distribution costs for the wealthy people if required to pay the same flat monthly rate.

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[18] It is also noteworthy that many customers already are accustomed to levelized monthly billing for utility services, since Columbia is required to offer budget billing under the Commission's regulations. 52 Pa. Code § 56.12(7). The Commission and the OCA encourage customers to consider budget billing as a way to level out monthly charges. Columbia St. 2, pp. 35-36. Thus, adopting a fixed charge for residential distribution services should not be considered as outside the norm.

RD, p. 96.

These conclusions are not correct. The LDC would not create a subsidy of the wealthy by the poor. In fact, the record demonstrates (and the Commission's *ARRA Order* recognized) that recovery of fixed costs through a flat monthly fee rate design will eliminate residential intra class subsidies.

To understand the error in the RD's statement, it is again necessary to consider Columbia's evidence that the cost to serve does not vary among residential customers by usage. Columbia explained this point in response to public input testimony that high use customers should pay a larger portion of distribution costs.

> Mr. Carryer makes a lot of statements which are simply inaccurate or misleading. For instance, he claims that the "LDC does not reflect the true cost of consumption" and "Under the LDC, a senior citizen on a fixed income who lives in a small apartment will pay the same distribution charges as a high-usage family living in an 8,000-square-foot oversized house." However, as explained in great detail in my direct testimony, and Company witness Feingold's direct and rebuttal testimonies, Columbia's true cost of providing distribution services is the same for both of these residential customers. It does not cost Columbia any more to deliver gas to the 8,000 square foot house than it does to deliver gas to a senior citizen in a small apartment. The same pipe serves both customers, Columbia incurs the same cost to read each customer's meter, Columbia incurs the same billing and collection costs for both types of customers, etc. Simply put, Columbia's costs do not increase as a residential customer's usage volume increases. Because Columbia's costs are fixed, the LDC is a far superior means of reflecting Columbia's true cost to serve customers than a volumetric rate.

Columbia St. 102, p. 18.

As the foregoing explains, low use customers should receive a substantially greater increase in bills because they are being – and have long been – subsidized by high use customers under the current usage based rate design. Low use customers are receiving a substantial discount in payment of the cost of the system that is in place throughout the year to serve their

needs. The LDC does not cause the low use customer to subsidize the high use customer; it simply removes the subsidy of the low use customer under the current rate design.

The RD compounds its error regarding intra class subsidies by equating low use with low income to derive a "rich vs. poor" argument regarding the LDC. It is to be emphasized that the LDC has no inherent effect upon a customer's bill based on income. The LDC charges the same amount to each residential customer, without regard to income or usage, because the cost to serve does not vary between customers.

The RD implies that all low income customers are low use customers. Such implication is incorrect. Columbia's evidence indisputably demonstrates that the average usage of low income customers participating in its various energy assistance programs exceeds the average annual usage of a typical Columbia residential customer. Columbia St. 12, p. 49. No party has suggested to the contrary. Rather, the only point of contention is whether low income customers who are not participating in Columbia's energy assistance programs are low use customers.

It is Columbia's position that many low income customers have above average usage, and therefore are currently overpaying for distribution service. Columbia MB, p. 22.[19] OCA and PCOC assert that many other low income customers are low use customers, but Columbia has demonstrated that the evidence submitted in support of this contention is far from conclusive. Columbia RB, pp. 25-27.

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[19] Columbia's position is consistent with the findings of other state utility commissions. See, *In the Matter of Missouri Gas Energy and its Tariff Filing to Implement a General Rate Increase for Natural Gas Service,* 280 P.U.R. 4th 107, (Missouri Public Service Commission, February 20, 2010); *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Authority to Amend Filed Tariffs to Increase the Rates and Charges for Gas Distribution Service*, 2008 Ohio PUC LEXIS 736 (Public Utilities Commission of Ohio, December 3, 2008); *In the Matter of the Application of Vectron Energy Delivery of Ohio, Inc. for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters*, 2009 WL 62644 (P.U.C. of Ohio, January 7, 2009); *Re. North Shore Gas Company and The Peoples Gas Light and Coke Co.*, 2008 WL 631214 (Illinois Commerce Commission, February 5, 2008).

More importantly, the question of whether low income customers, on average, tend to be high use or low use customers should not drive a decision on the LDC. The decision should be driven by principles of cost-causation, aligning the utility's financial interests with the energy efficiency interests of its customers, eliminating intra-class subsidies, and the other evidence offered by Columbia, because there is a solution to any affordability problems that may result from any increase in bills to low income, low use customers due to the LDC.

No party has challenged the fact that the average CAP participant usage is substantially greater than the average usage of residential customers. Mr. Feingold has demonstrated that average annual CAP customer usage on Columbia's system is more than 35 Mcf higher than average residential customer usage. Columbia St. 12, p. 49. As a result, the LDC will result in lower CAP current bill shortfalls, as the difference between the full bill and the discounted CAP bill will shrink. The result will be a reduction to Rider USP – Universal Service Program charges recovered from non-CAP customers. If there are any low income, low usage customers who would become payment troubled because of increased bills under the LDC, these customers can also be placed on CAP. It also is to be noted that under Columbia's proposed residential rate design, the USP will continue to be charged on a usage basis. Columbia St. 2, p. 22. Thus, higher use customers will continue to pay more of these costs than low use customers. As a result, if OCA's and PCOC's contention that a significant number of low income customers tend to be low usage customers were to be correct, the combination of reduction in CAP costs for current CAP customers and the usage-based structure of Rider USP will offer the opportunity to expand CAP participation as a solution for increased bills under the LDC to low income, low use

customers.[20] Clearly, the possible effects on some low income low use customers should not be used as the basis for rejecting the adoption of an appropriate rate design when CAP provides a solution.

The LDC should be adopted.

4. The RD's Criticism of Columbia for Only Proposing the LDC for Residential Customers is Incorrect

The RD's final basis for rejecting the LDC is that it was proposed only for residential customers:

> Lastly, Columbia Gas requests this proposal only be applied to the residential class without any justification for why the residential class is singled out for this treatment. If the purpose of the proposed LDC is meant to remove the utility's disincentive to conserve, then there should be an even greater incentive to conserve if the LDC were applied to the nonresidential classes as well. Yet as noted by OSBA, imposing the LDC on nonresidential ratepayers would result in an intra-class subsidization of larger customers by smaller ones. That result would be unfair and against the public interest.

RD, p. 97.

Such contention operates under the assumption that the primary, or sole, basis of the proposed LDC was to remove the utility's disincentive to encourage conservation. As explained herein and in Columbia's briefs, removing utility disincentives to conservation was only one reason in support of the LDC. The LDC was proposed because it best matched rates to cost causation for residential customers. The LDC matches rates to cost causation for residential customers because expenses and plant investment do not vary by customer usage. Most critically, all residential customers can be served by the same sized meter, service and minimum sized main installed on Columbia's system. Columbia St. 2, p. 39; Columbia St. 12, pp. 44-46.

[20] Conversely, as explained previously, low income, high use customers will have lower bills upon adoption of the LDC.

In contrast, the LDC was not proposed for commercial and industrial customer classes precisely because there is less homogeneity of demand among these classes than there is within the residential class.[21] Because commercial and industrial customer demands can vary substantially, this can affect distribution costs to serve due to variability in investments in the meters and mains. Columbia St. 112-R, p. 22; Columbia St. 12, pp. 44-45. It may be appropriate to consider modifications to rate structures for commercial and industrial classes in the future to further align rates with cost incurrence, but Columbia did not undertake any examination of rate design changes for these classes in this case. Moreover, current rate designs for these classes already have substantially higher customer charges and lower usage-based charges.

The recommended rejection of the LDC because it was not proposed for other rate classes is in error and is not a valid basis for rejecting the LDC for the residential class.

5. The Recommended Adoption of OCA's Rate Design Proposal Should be Rejected

The RD recommends adoption of OCA's rate design proposal, which would place the entire settled residential class increase in the usage based distribution charge. No specific reason is offered for adopting the OCA's proposal other than OCA's argument was found to be "persuasive."

Columbia interprets the RD's conclusion to be an acceptance of the concept of setting customer charges on the basis of "direct customer costs." The "direct customer cost" concept substantially limits the definition of customer costs to essentially meters and services investment, and certain "directly" associated expenses, such as meter reading and collections. OTS Exh. 3, Sch. 20-22; OCA Sch. GAW-6. The effect is to shift recovery of millions of dollars

[21] No party argued that it was improper to apply the LDC to residential customers without also expanding its application to commercial and industrial customers. OSBA argued that the LDC could not be applied to commercial and industrial customers because of the non-homogeneity of those rate classes.

in fixed costs into usage charges. Most critically, there is no consideration given to the distribution system, *i.e.*, mains, that must be in place to provide service. Without consideration of mains, customer charges are set well below the real cost of the system that is in place throughout the year to serve customers' needs. OSBA's witness, Mr. Knecht, cogently pointed out the flaw in the "direct cost" approach:

> It has been my experience that Mr. Kempic is correct that Commission policy supports the use of only "direct" customer costs as the cost basis for a customer charge, most particularly with respect to Residential class rate design. This policy went into effect prior to my entry into the Pennsylvania regulatory arena in the mid-1990s, and has been cited as gospel ever since. It may be time to reconsider this policy.
>
> The basic flaw in the policy is that it creates intra-class cross-subsidization. For those costs which are classified as customer-related in the COSS, every customer, large or small, will attract the same customer costs to the customer class. To the extent that the customer charge does not recover classified customer costs, smaller customers will be subsidized by larger customers.
>
> Because this policy has been in place for so long, it is no longer clear what the original basis for the policy was, or whether that basis remains relevant. It is certainly possible that an important consideration was an effort to mitigate rates for low-income residential customers, who may have been presumed to have lower usage rates. If so, this rationale is no longer appropriate. First, customer assistance programs for low-income residential customers have expanded dramatically over the past fifteen years, reducing the need for a crude rate design fix. Second, as Mr. Feingold's testimony demonstrates, on average, low-income residential customers actually have higher consumption rates than other residential customers. Commission policy in this respect may therefore be requiring lower-income customers to subsidize other small customers.
>
> In addition, it is not necessarily good public policy to cross-subsidize small customers. In many cases, "small" utility customers are second homes or cottages owned by the relatively well-to-do. There is little public policy need to subsidize vacation homes. In addition, the relatively small gas customers may be customers who heat with alternative fuels, including those fuels which are potentially more environmentally damaging than natural gas. It is not clear that any public policy objectives are advanced by subsidizing these customers.

OSBA St. 2, pp. 31-32.

Columbia acknowledges that the concept of setting customer charges on "direct customer costs" without recognition of the distribution mains has been Pennsylvania's policy for a number of years. However, Columbia's position is that whatever justification may have once existed for this policy, it is no longer relevant. This is especially true in cases like Columbia's when the rate increase is primarily driven by Columbia's accelerated investment in replacing mains. For all of the reasons explained previously in these Exceptions, the Commission should reject the concept of "direct customer costs" for limiting customer charges, and should recognize that appropriate rate design based on cost causation principles weighs in favor of recovering all fixed costs through fixed rates for residential customers as proposed by the LDC. Columbia notes that if customer charges were just set based on all customer costs, rather than "direct customer costs," residential customer charges should still be increased to a range of $26.50/mo. to $29/mo., according to Columbia's two cost of service studies. Columbia Exh. 111, Sch. 2, p. 10; Columbia Exh. 111, Sch. 3, p. 10. Fixed charges in this range would recover less than all fixed costs of about $34.00 under the LDC, but would represent a substantial movement toward setting rates on the basis of true cost causation.[22]

The Commission should reject the RD's recommendation to adopt OCA's rate design recommendation. The concept of "direct customer costs" as a limiter on customer charges improperly subsidizes low use customers, and should be reconsidered.

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[22] It is to be emphasized that the OTS proposal is not a solution to the underrecovery of fixed costs in fixed rates. The OTS proposal prices two Mcf of distribution usage in the customer charge, and removes that usage from the calculation of the usage based distribution charge. The result is to produce a distribution rate substantially the same as the OCA distribution rate. Since this rate is applied to usage most affected by conservation and weather effects, Columbia would continue to experience substantial revenue volatility under this proposal. See Columbia MB, pp. 25-26; Columbia RB, pp. 30-31.

6. Conclusion as to LDC

As the record, Columbia's briefs and these exceptions demonstrate, the LDC appropriately aligns rates with costs, aligns utility and customer interests in adopting long-term, cost-effective energy efficiency measures and signals capital markets that Pennsylvania is supportive of investment in infrastructure. For these reasons, the Commission should be forward-thinking in the area of residential rate design and adopt Columbia's proposed LDC. Such action will reaffirm the Commission's position as a leader in progressive utility regulation, as has been demonstrated by its prior actions to establish the Distribution System Improvement Charge and to promote Customer Choice. The Commission should follow these efforts by adopting Columbia's proposed LDC.

B. The Recommended Decision Incorrectly Concludes That Columbia Deducts CAP-Plus Amounts from LIHEAP Grants and Thereby Violates LIHEAP Requirements

The RD provides an extensive summary of the positions of Columbia, OCA and PCOC with regard to PCOC's challenge to Columbia's currently effective, Commission-approved CAP-Plus Plan. RD, pp. 100-133.[23]

The ALJ correctly analyzes the fundamental scope of the Commission's and DPW's scopes of authority. As to the Commission, the ALJ correctly concludes as follows:

> The Commission has the authority to create a structure of rates which require[s] all CAP participants to pay a "Plus" amount. Therefore, if the Commission finds a rate structure or set of rates are right and reasonable, and in the public interest . . . then neither DHHS nor DPW are authorized to disband or eliminate the CAP program. Only the Commission can disband or eliminate its duly-authorized rate structure or rate program.

RD, p. 135.

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[23] Although Section V.F of the RD, pp. 100-115, is characterized as the Parties' Briefing Provisions Concerning CAP-Plus Program, Sections V.G, H, I and J of the RD, pp. 115-133, contain recitations of PCOC's position taken directly from its briefs. See, PCOC RB, pp. 4-25. The ALJ's analysis commences on page 133 of the RD.

As to DPW and DHHS, the ALJ correctly concludes as follows:

> DHHS interprets how federal LIHEAP funds are to be applied to a ratepayer's bill – and the Commission must comply or risk a showdown where DHHS may withhold federal grant monies due to non-compliance by a state regulatory commission. In addition, LIHEAP funds can only be spent and applied in a manner that does not treat LIHEAP-receiving ratepayers adverse to any other class of ratepayer, whether in a CAP program or not.

RD, p. 136.

Based on these principles and the ALJ's understanding of how the CAP-Plus program works, the ALJ concluded that the manner in which Columbia applies LIHEAP grants violates LIHEAP rules. The RD provides as follows:

> All CAP recipients (whether LIHEAP recipients or not LIHEAP recipients) are required to pay the "Plus" sum each month. Therefore, LIHEAP recipients – who are also CAP participants – are not treated adversely if, likewise, they are required to pay the same sum each month. As the state commission authorized to establish right rates and charges, the Commission can permit Columbia Gas to charge all CAP participants a monthly charge to cover some of the costs of the program, including those CAP participants who also receive LIHEAP.
>
> Even though the Commission is authorized to permit Columbia Gas to require a monthly payment from all CAP participants, the Commission is not authorized to permit Columbia Gas to "annualize" the sum due and then remove the annualized sum from the LIHEAP grant before applying the grant to the LIHEAP recipient's account. Columbia Gas is in error to take the annualized Plus payment "off the top" when it receives a LIHEAP grant and before applying the grant to a LIHEAP-CAP participant's account.

RD, p. 136.

However, the RD is incorrect in concluding that Columbia annualizes the monthly CAP-Plus amounts and deducts the total amount "off the top" from the LIHEAP grant provided to the customer. The RD provides no citation to record evidence to support that factual conclusion. To the contrary, the summary of OCA's position in the RD concerning these matters is as follows:

> Under the CAP-Plus program, an asked to pay amount is determined for each CAP customer. The first step in determining the asked to pay amount is to select one of four payment options. Once the payment option is selected, a monthly amount is calculated for that option. Then, the Plus amount is added to arrive at the final asked to pay amount for the customer. In this case, the Plus amount is $17 per month, and this same $17 is included in the monthly asked to pay amount for all CAP customers. The Plus amount is determined by taking the total LIHEAP receipts by Columbia Gas for its CAP customers from the prior year and dividing that number by the total number of CAP participants.

RD, p. 108.

Since the CAP-Plus amount is added to all CAP customers asked to pay amounts, there is no basis to deduct it from - - and Columbia does not deduct it from - - the LIHEAP grant received for any customer. To the contrary, the following testimony from OCA witness Colton makes it clear that the entire grant received is applied to the asked to pay amount of each CAP customer.

> Mr. Bertocci errs when he asserts that under CAP-Plus, LIHEAP would "subsidize the CAP program, without directly benefiting the individual LIHEAP recipient." (PCOC Statement 1, at 7). The fallacy of this assertion can be seen in the operation of the Company's Universal Service Rider, through which it collects the costs of CAP from CAP non-participants. The receipt of LIHEAP dollars does not reduce the CAP costs collected through the Universal Service Rider.
>
> In contrast, the assertion that LIHEAP does not "directly benefit the individual LIHEAP recipient" is simply factually incorrect. A LIHEAP benefit reduces the out-of-pocket payment made by a LIHEAP recipient toward his or her asked-to-pay amount. A LIHEAP benefit represents a customer payment and would forestall collection activity if the CAP participant were in arrears on CAP payments. A LIHEAP benefit would earn arrearage forgiveness if the customer were otherwise eligible for such forgiveness. In all respects, a LIHEAP benefit serves the same function under CAP-Plus as a customer payment does.

OCA St. 3-R at 32-33. In summary, the CAP asked to pay monthly amount including the Plus amount is determined. If a LIHEAP grant is received for the customer, the entire amount is applied to the customer account as a credit and offsets future payments. Columbia witness Davis

illustrated how applying a CAP customer's LIHEAP grant in this manner can substantially reduce or even eliminate the customer's annual "asked to pay" amount. Columbia St. 117-RJ, p. 4.

The RD concludes that deduction of the CAP-Plus amount from the LIHEAP grant would violate the LIHEAP requirements but that addition of the Plus amount to the asked to pay amount and application of the entire grant to the customer account does not.

> As a result, Columbia Gas can charge all CAP participants a monthly charge to cover some of the costs of the program, including those CAP participants who also receive LIHEAP, but Columbia Gas cannot take the annualized sum of Plus payments "off the top" when receiving a LIHEAP grant on behalf of a CAP participant. The LIHEAP grant must go towards the LIHEAP-CAP participant's account even if that account includes the Plus payments.

RD, p. 138.

The only error of the RD on the CAP-Plus issue is the incorrect factual conclusion that Columbia deducts the CAP-Plus amount from the LIHEAP grant.[24] The previously explained unrebutted evidence demonstrates that Columbia's CAP-Plus program uses the procedure the ALJ finds permissible. Accordingly, the RD's recommendation that "the Commission require Columbia Gas to apply LIHEAP grants to each individual LIHEAP recipient's account without deducting the annualized CAP-Plus payment first" (RD, p. 138), is unnecessary because the evidence demonstrates that this is what is done under Columbia's approved CAP-Plus program.[25]

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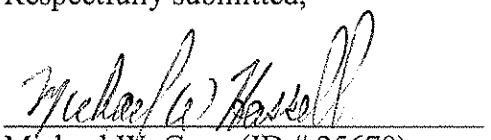
[24] The confusion of Columbia's actual process of applying the LIHEAP grant may be the result of PCOC's and DPW's contentions that charging a CAP-Plus amount has the effect of using the LIHEAP grant to pay a portion of the CAP customer's discount. As the ALJ correctly recognized, the determination of the "asked to pay" amount is in the exclusive jurisdiction of the Commission.

[25] The associated Summary of Evidence on page 99 of the RD should also be revised as follows:
Under the CAP-Plus implemented for 2010/2011, Columbia Gas' CAP customers ~~receiving LIHEAP~~ paid an additional $17 per month, or $204 per year, on their total asked to pay amounts.
~~The average CAP customer receiving LIHEAP, who obtained a minimum LIHEAP grant of $300 in 2010/2011, saw $204 of the $300 LIHEAP grant go to pay the Plus amount and $96 of the LIHEAP grant go to pay the customer's energy bill.~~

IV. CONCLUSION

For the foregoing reasons, the Recommended Decision should be revised to adopt Columbia's proposed Levelized Distribution Charge for residential customers and to reject OCA's rate design proposal. In addition, the Recommended Decision should be revised to remove the recommendation that Columbia cease deducting the annualized "Plus" amount from the LIHEAP grant, because Columbia does not make such a deduction. In all other respects, the Recommended Decision should be adopted.

Respectfully submitted,



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