BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-2018-2647577
Office of Consumer Advocate	:	C-2018-3000582
Office of Small Business Advocate	:	C-2018-3000773
Patricia Southorn	:	C-2018-3000779
The Pennsylvania State University	:	C-2018-3001034
Columbia Industrial Intervenors	:	C-2018-3001047
G. Blair Bauer	:	C-2018-3001319
Philip L. Bloch	:	C-2018-3001634
Robin A. Harrison	:	C-2018-3002595
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	
Petition of Columbia Gas of Pennsylvania,	:	P-2018-2641257
Inc. For Authorization to Defer, For	:	
Accounting Purposes, Certain Costs	:	
Associated With a Prepayment to the	:	
NiSource, Inc. Pension Trust	:	

RECOMMENDED DECISION

Before
Jeffrey A. Watson
Administrative Law Judge

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I. INTRODUCTION

This Decision recommends that the Joint Petition for Partial Settlement (Partial Settlement or Settlement) of the general base rate proceeding be approved without modification; and that Columbia Gas of Pennsylvania, Inc.'s (Columbia's) request to continue to include on its bills a separate line item charge for non-commodity services elected by customers and offered by unaffiliated entities who are not Natural Gas Suppliers (NGSs) be granted without requiring Columbia to allow NGSs access to Columbia's bills to charge customers for other non-commodity products and services that may be offered by NGSs.

In the Partial Settlement, the Joint Petitioners proposed that rates be designed to produce an additional $26.0 million in annual base rate operating revenues instead of the Company's filed increase request of approximately $46.9 million. Upon approval of the Settlement, Columbia would receive an increase in existing base rate operating revenues of approximately 4.52%, instead of the 8.16% increase proposed in Columbia's filing. A typical residential sales customer using 70 therms of gas per month would see an increase in his/her monthly bill from $91.63 to $95.74, or by 4.49%, instead of the monthly increase from $91.63 to $99.88 per month, or 9%, that was originally proposed in the filing.

II. HISTORY OF THE PROCEEDINGS

Columbia Gas of Pennsylvania, Inc. (Columbia or the Company) is a public utility and natural gas distribution company (NGDC) as those terms are defined in Sections 102 and 2202 of the Public Utility Code, 66 Pa.C.S. §§ 102, 2202. Columbia provides natural gas distribution, sales, transportation, and/or supplier of last resort services to approximately 426,000 retail customers in portions of 26 counties of Pennsylvania. (Joint Petition, pp. 2-3.)

On March 15, 2018, the Pennsylvania Public Utility Commission (Commission) issued an order at Docket No. M-2018-2641242, establishing the then-current rates of certain public utilities as temporary rates, in response to the Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97, 131 Stat. 2054 (TCJA). (Joint Petition, p. 4.)

On March 16, 2018, Columbia Gas of Pennsylvania, Inc. filed Supplement No. 267 to its Tariff Gas – Pa. P.U.C. No. 9 (Supplement No. 267) with the Commission and proposed a May 15, 2018 effective date. In Supplement No. 267, the Company proposed to increase rates to produce additional overall revenues of approximately $46.9 million, or an 8.16% increase in operating revenues based upon a pro forma fully projected future test year (FPFTY) ending December 31, 2019. (Joint Petition, p. 3.).

On March 20, 2018, the Office of Consumer Advocate (OCA) filed a formal complaint in opposition to the Company's proposed rate increase at Docket No. C-2018-3000582. On March 22, 2018, the Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance in this matter. On March 28, 2018, the Office of Small Business Advocate (OSBA) filed a formal complaint at Docket No. C-2018-3000773. On March 28, 2018, Patricia Southorn also filed a formal complaint at Docket No. C-2018-3000779. On March 30, 2018, Shipley Choice, LLC, Dominion Retail, Inc., and Interstate Gas Supply, Inc. (the NGS Parties or NGSs) filed a Petition to Intervene. On April 4, 2018, the Community Action Association of Pennsylvania (CAAP) also filed a Petition to Intervene. On April 6, 2018, Pennsylvania State University (PSU) filed a formal complaint at Docket No. C-2018-3001034. On April 9, 2018, the Columbia Industrial Intervenors (CII) filed a formal complaint at Docket No. C-2018-3001047. On April 10, 2018, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene. On April 16, 2018, Direct Energy Business, LLC, Direct Energy Services, LLC and Direct Energy Business Marketing, LLC (collectively Direct Energy) also filed a Petition to Intervene.

On April 5, 2018, the Commission entered an Order suspending Supplement No. 267 until December 16, 2018, pursuant to Section 1308(d) of the Public Utility Code, 66 Pa.C.S. § 1308(d), and initiated an investigation into the lawfulness, justness, and reasonableness of the proposed and existing rates, rules, and regulations. The Company's filing was assigned to the Office of Administrative Law Judge (OALJ) and further assigned to the undersigned presiding officer.

On April 10, 2018, a Call-In Telephone Hearing Notice was issued scheduling the Prehearing Conference in this proceeding for April 18, 2018, at 9:00 a.m. A Prehearing Conference Order was entered on April 10, 2018, which required the Parties, *inter alia*, to submit prehearing memoranda. Prehearing memoranda were submitted by the Company, I&E, OCA, OSBA, the NGS Parties, CAUSE-PA, CII, Direct Energy, and PSU prior to the Prehearing Conference in this proceeding.

A Prehearing Conference was held on April 18, 2018, as scheduled. Counsel for the Company, I&E, OCA, OSBA, the NGS Parties, CAUSE-PA, CII, Direct Energy, and PSU attended the conference.

On April 19, 2018, Columbia filed Supplement No. 274 to Tariff Gas Pa. PUC No. 9, suspending Columbia's Supplement No. 267 until December 16, 2018. (Joint Petition, p. 5.)

On April 20, 2018, Columbia filed supplemental direct testimony, which calculated the effect of the TCJA on Columbia's 2018 tax liability. Columbia's original rate filing had included the prospective effect of the TCJA in calculating Columbia's proposed revenue requirement. (Joint Petition, p. 4.)

On May 1, 2018, the undersigned presiding officer issued a Prehearing Order that confirmed the litigation schedule established at the Prehearing Conference. The Prehearing Order also consolidated the Accounting Deferral Petition with the 2018 Base Rate Filing. By way of background, on January 5, 2018, at Docket No. P-2018-2641257, Columbia filed its Accounting Deferral Petition, requesting Commission approval to defer, for accounting and financial reporting purposes only, the Company's prepayment of $8.45 Million to the NiSource, Inc. Pension Plan, made on January 5, 2017. The case was assigned to Administrative Law Judge Dunderdale. On March 22, 2018, ALJ Dunderdale issued a notice scheduling a Prehearing Conference in the Accounting Deferral Petition for March 28, 2018. Columbia, I&E and OCA submitted prehearing memoranda on March 27, 2018. In its prehearing memorandum, Columbia requested that the Accounting Deferral Petition be consolidated with the base rate proceeding.

OCA indicated that it did not oppose Columbia's request for consolidation. I&E requested that Columbia withdraw its Petition in the event the cases were consolidated. ALJ Dunderdale canceled the scheduled Prehearing Conference pending a decision on Columbia's request for consolidation. On March 29, 2018, ALJ Dunderdale directed Columbia to submit a motion in support of its request for consolidation. On April 6, 2018, ALJ Dunderdale sent an email to the Parties advising them that they needed to file the motion to consolidate in the base rate proceeding. On April 6, 2018, the Company filed a motion to consolidate the Accounting Deferral Petition with the base rate proceeding filed at Docket No. R-2018-2647577.

In its Accounting Deferral Petition, Columbia sought permission to defer the pension prepayment on its books of account pending a determination of recoverability in Columbia's next base rate case. Columbia sought only permission to defer the prepayment for accounting purposes and did not seek a determination as to rate recovery of the prepayment in the Accounting Deferral Petition.

The Prehearing Order also consolidated the formal complaint filed by OCA at Docket No. C-2018-3000582, the formal complaint filed by OSBA at Docket No. C-2018-3000773, the formal complaint filed by Patricia Southorn at Docket No. C-2018-3000779, the formal complaint filed by PSU at Docket No. C-2018-3001034 and the formal complaint filed by CII at Docket No. C-2018-3001047 with the filing by the Company at R-2018-2647577.

On May 2, 2018, Columbia filed a Motion for a Protective Order. The undersigned presiding officer granted Columbia's Motion and issued the Protective Order on May 9, 2018.

On May 14, 2018, a public input hearing notice was issued, scheduling a public input hearing at the Courthouse Square Building, 100 West Beau Street, Washington, Pennsylvania, for June 21, 2018 beginning at 6:00 p.m. The public input hearing was held as scheduled.

On May 17, 2018, at Docket No. M-2018-2641242, the Commission issued a further order directing certain utilities to establish temporary rates in the form of a negative surcharge effective July 1, 2018. In that Order, the Commission exempted Columbia from filing a negative surcharge because of Columbia's pending base rate case. The Commission further stated:

> Accordingly, the Commission expects the public utility and the parties in each such proceeding to address the effects of the federal tax reduction on the justness and reasonableness of the consumer rates charged during the term of the suspension period, and, in particular, whether a retroactive surcharge or other measure is necessary to account for the tax rate changes that became effective on January 1, 2018.
>
> (May 17, 2018 Order at pp. 20-21; Joint Petition, pp. 4-5.)

On June 11, 2018, a hearing notice was issued, scheduling the evidentiary hearing in this proceeding for July 25-27, 2018 and August 6, 2018 beginning at 10:00 a.m. each day in Harrisburg, Pennsylvania.

An interim order was entered on June 21, 2018 amending the Prehearing Order entered on May 1, 2018, to provide the deadline for surrebuttal testimony of July 17, 2018, except for OCA witness Roger D. Colton, whose surrebuttal testimony was due on July 19, 2018.

Subsequent to the Prehearing Conference, but prior to the commencement of the evidentiary hearing, additional complaints were filed. On April 19, 2018, a formal complaint was filed by G. Blair Bauer at Docket No. C-2018-3001319; a formal complaint was filed by Philip L. Bloch on May 1, 2018 at Docket No. C-2018-3001634; and a formal complaint was filed by Robin A. Harrison on June 7, 2018 at Docket No. C-2018-3002595.

Prior to the hearing, on July 23, 2018, the undersigned presiding officer was advised that the Parties did not need three days in order to complete testimony during the week of July 23, 2018, accordingly, the undersigned presiding officer cancelled the hearing scheduled for July 25, 2018 and advised the Parties that the hearing would begin on July 26, 2018.

The evidentiary hearing was commenced on July 26, 2018, at 10:00 a.m., at which time the Joint Petitioners' pre-filed testimony and exhibits were admitted into the record. Counsel for the Company, I&E, OCA, OSBA, the NGS Parties, CAUSE-PA, CII, Direct Energy, and PSU attended the hearing. All Parties present at the hearing agreed that the formal complaints filed by G. Blair Bauer at Docket No. C-2018-3001319; by Philip L. Bloch at Docket No. C-2018-3001634; and by Robin A. Harrison at Docket No. C-2018-3002595 would be consolidated with the base rate case proceeding filed at Docket No. R-2018-2647577. At the hearing, Counsel for the Company represented that the Parties had settled in principal all but one issue in this proceeding and the Parties had reached an agreement regarding the admission of evidence and the waiver of cross examination at the hearing. Evidence was received and the hearing was concluded on July 26, 2018.

On July 27, 2018, an interim order was entered consolidating the formal complaints filed by G. Blair Bauer at Docket No. C-2018-3001319; by Philip L. Bloch at Docket No. C-2018-3001634; and by Robin A. Harrison at Docket No. C-2018-3002595. In addition, the hearings scheduled for July 27, 2018 and August 6, 2018 were cancelled.

On August 16, 2018, main briefs were filed by Columbia, Direct Energy, the NGS Parties and OCA.

On August 31, 2018, reply briefs were filed by Columbia, the NGS Parties[1] and OCA.

On August 31, 2018, I&E, OCA, OSBA, CII,[2] the NGS Parties, the Direct Energy Companies, CAUSE-PA, CAAP, PSU and Columbia (hereinafter collectively referred to as the Joint Petitioners), filed a Joint Petition for Partial Settlement (Settlement) and requested that the Commission approve the Settlement. The Joint Petition included the tariff supplements and

[1] For purposes of the Settlement, Dominion, Shipley and Interstate Gas Supply are referred to collectively as the NGS Parties.

[2] CII's members are Glen-Gery Corporation, Knouse Foods Cooperative, Inc., and Hanover Foods Corporation.

statements in support of Settlement filed by I&E, OCA, OSBA, CII, the NGS Parties, the Direct Energy Companies, CAUSE-PA, CAAP, PSU and Columbia attached to the Settlement as Appendices A through M. The Settlement has been agreed to or not opposed by all active parties in this proceeding.[3] (Joint Petition, p. 2.)

The Joint Petitioners agreed to a settlement of all but one issue in the general base rate proceeding (the 2018 Base Rate Filing). Among other provisions, the Settlement provides for increases in rates designed to produce $26 million in additional base rate revenue based upon the pro forma level of operations for the twelve months ended December 31, 2019. The new rates would go into effect on December 16, 2018. (Joint Petition, p. 2.)

The Joint Petitioners agreed to a base rate increase, to an allocation of that revenue increase to the rate classes and to rate design for all rate classes to recover the portion of the rate increase allocated to such classes. The Joint Petitioners also agreed to a mechanism to return to customers the 2018 income tax differential resulting from the TCJA. Other issues presented in the proceeding, except for the billing of non-commodity products and services, were resolved by the Settlement. (Joint Petition, p. 6.)

In the Settlement, the Joint Petitioners have proposed that rates be designed to produce an additional $26.0 million in annual base rate operating revenues instead of the Company's filed increase request of approximately $46.9 million. Upon approval of the Settlement, Columbia will receive an increase in existing base rate operating revenues of approximately 4.52%, instead of the 8.16% increase proposed in Columbia's filing. A typical residential sales customer using 70 therms of gas per month will see an increase in his/her monthly bill from $91.63 to $95.74, or by 4.49%, instead of the monthly increase from $91.63 to $99.88 per month, or 9%, that was originally proposed in the filing. (Joint Petition, pp. 6-7.)

[3] Four individual Columbia customers filed a formal complaint against the Company's proposed rate increase. However, the customers did not attend the Prehearing Conference, did not file testimony, and did not otherwise actively participate in this matter. As indicated on the Certificate of Service, Columbia served a copy of the Settlement on the inactive customer complainants.

On September 4, 2018, written notice was provided to Complainants G. Blair Bauer, Philip L. Bloch, Robin A. Harrison and Patricia Southorn, (individual complainants) by the undersigned presiding officer acknowledging that they were listed on the certificate of service attached to the Joint Petition. The notice advised the individual complainants to carefully review the Petition For Partial Settlement or Settlement filed on August 31, 2018. The individual complainants were advised that they must file any objection to the Settlement in writing with the Secretary for the Commission and that all objections must be received by all parties listed on the service list and the undersigned presiding officer no later than 4:30 p.m. on Wednesday, September 12, 2018. The individual complainants were advised that any objection received after that time would not be considered.

On September 14, 2018, an interim order was issued which admitted the Joint Petition for Partial Settlement into the record along with the attached Appendices marked as A through M and closed the record in this proceeding.

No objection was received by the undersigned presiding officer from Complainants G. Blair Bauer, Philip L. Bloch, Robin A. Harrison and Patricia Southorn on or before September 12, 2018.

This Recommended Decision recommends the Joint Petition for Partial Settlement be adopted, without modification, and that Columbia's request to continue to include on its bills a separate line item charge for non-commodity services elected by customers and offered by unaffiliated entities who are not NGSs be granted without requiring Columbia to allow NGSs access to Columbia's bills to charge customers for other non-commodity products and services that may be offered by NGSs.

III. FINDINGS OF FACT

The following findings of fact are made with regard to the issue reserved for litigation and based upon the record evidence presented in this proceeding.

1. Columbia provides natural gas sales, transportation, and/or supplier of last resort services to approximately 426,000 retail customers in portions of 26 counties of Pennsylvania. (Columbia St. No. 1, p. 3.)

2. Pursuant to the terms of separate agreements between Columbia and Columbia Service Partners, Inc. (CSP) and Columbia and Nicor Energy Services Company (Nicor), Columbia includes a separate line item charge on its customer bills for certain covered non-commodity products and services, such as repair and maintenance plans for customer-owned facilities, offered by these entities. (Columbia St. No. 18-R, p. 3.)

3. Revenues received by Columbia under the contracts with CSP and Nicor are credited as miscellaneous revenues and reflected in computing revenue requirements. (Columbia St. No. 18-R, p. 3.)

4. Both CSP and Nicor are former Columbia affiliates but are no longer affiliated with Columbia. (Columbia St. No. 18-R, p. 3.)

5. Neither CSP nor Nicor are natural gas suppliers (NGSs). (Columbia St. No. 18-R at 3-4.)

6. Columbia's current non-commodity billing practices are not reflected in Columbia's tariff or any explicit Commission Order. (OCA St. No. 5-R at 4.)

7. Many entities offer the types of services that CSP and Nicor offer, only some of which are NGSs. (OCA St. No. 5-R at 6.)

8. Prior to the sale of CSP and the NiSource Retail Services assets, Columbia provided on bill billing services to these affiliates. Prior to the sale, NiSource Retail Services provided various service plans for the repair and maintenance of customer-owned heating and cooling systems, water heaters, appliances, pipes and wires to Columbia customers for nine years. (Columbia St. No. 18-R, p. 3.)

9. The NGS Parties have requested access to utilize Columbia's billing services. (NGS Parties' St. No. 2, 6:9-11.)

10. Columbia has refused to grant the NGS Parties access to its billing services. (Columbia St. No. 18-R, 7:21-8:9.)

11. Columbia does not provide on bill billing for any entity other than CSP and Nicor. (Columbia St. No. 18-R, pp. 4-5.)

12. The agreements with CSP and Nicor are negotiated in arm's length transactions. (Columbia St. No. 18-R, pp. 3-4.)

13. Columbia does not sell or market the non-commodity services being offered. The non-commodity products are marketed directly by the third party entities that offer the products, without any involvement from Columbia. (Columbia St. No. 18-SR, p. 7.)

14. It is Columbia's experience that when changes are made to customer bills, calls to the customer contact center about billing questions increase. (Columbia St. No. 18-R, p. 7.)

15. The types of charges the NGS Parties are proposing to add to the bills, such as home protection services and loyalty rewards programs, are not charges that customers would reasonably expect to appear on their gas bills. (Columbia St. No. 18-R, p. 7.)

16. Columbia would incur significant costs to update documentation and training for employees that would need to be provided if billing for these products and services were included on Columbia's bills. (Columbia St. No. 18-R, p. 7.)

17. Columbia's current billing system is limited to a very specific subset of services relative to the services being proposed by the NGS Parties. Several additional processes would need to be developed for Columbia to address issues that it would expect to face by allowing NGSs to include billing for non-commodity products and services on Columbia's bills, including training to educate employees on the products, development of a hierarchy to determine the impact of non-payment of services, and development of a customer complaint process. (Columbia St. No. 18-R, p. 7.)

18. Columbia applies any partial payments to the customer's utility service balance, including distribution and commodity charges. Non-commodity products and services are paid after the utility service balance is fully satisfied. (Columbia St. No. 18-SR, p. 4; Columbia Ex. No. NP-2-SR.)

19. The Commission's Regulations require Columbia to apply partial, or uncomplete payments first to past due basic charges, then to current basic charges, and only then to charges for non-basic services, unless the customer explicitly instructs otherwise. Moreover, service cannot be terminated for non-payment of non-basic service charges. (NGS Parties' St. No. 2-SR, 6:11-15.)

20. When customers inquire with Columbia regarding the non-commodity charges on their bill, Columbia discloses to the customer that CSP and Nicor are vendors that sell warranty service plans and are not affiliated with Columbia. (Columbia St. No. 18-SR, p. 4; Confidential Columbia Ex. No. NP-4-SR.)

21. Columbia informs customers that non-payment of these optional charges will not result in any delinquent fees or late charges by Columbia and will never result in

termination of natural gas service to the customer's home. (Columbia St. No. 18-SR, p. 4; Confidential Columbia Ex. No. NP-4-SR.)

22. Twice a year, Columbia sends a bill insert to customers notifying them of their ability to opt out of having their information shared with third parties. The notice explains how customers can notify Columbia of their desire to limit or restrict the information that is provided to third parties. (Columbia St. No. 18-SR, p. 8.)

23. Charges for the non-commodity services provided by CSP and Nicor appear as a distinct line item on the customer's bill. (Columbia St. No. 18-SR, p. 4.)

24. Columbia does not provide account number information to the third party entities. Only customers can give their account numbers to CSP and Nicor. (Columbia St. No. 18-SR, p. 7.)

25. Columbia currently allows Columbia Service Partners, Inc. and Nicor Energy Services Company to include non-commodity charges on Columbia's customer bills. (Columbia St. No. 18-R at 3.)

26. The CSP and Nicor non-commodity charges that may currently be included on Columbia's bills are for items such as warranty services covering HVAC systems and gas, water, and/or sewer line protection services. (NGS Parties St. No. 2 at 2.)

27. Columbia's current practice allows the Company to bill for unregulated and non-commodity services and products on its regulated bill for essential distribution and commodity services. (OCA St. No. 5-R at 4.)

28. Neither the prices nor the terms and conditions for the non-commodity items currently allowed on Columbia's bills are regulated. (OCA St. No. 5-R at 4.)

29. The inclusion of non-commodity products or services on Columbia's bill may give rise to an assumption by customers that such services are regulated or supervised by the Commission. (OCA St. No. 5-R at 4-5.)

30. Including charges for non-commodity services in the total amount owed on a utility bill provides a significant competitive advantage. (OCA St. No. 5-R at 6.)

31. It is not proper for the utility bill to be used as a collection tool for all unregulated products and services. (OCA St. No. 5-R at 6.)

32. It may be unclear to customers that, although non-commodity charges are included in the total amount due on their bill, payment for non-commodity services is not necessary to avoid termination of essential utility service. (OCA St. No. 5-R at 6-7.)

33. It is unclear from the record in this case exactly how non-commodity products and services are marketed and sold to Columbia's customers. (OCA St. No. 5-R at 7.)

34. The NGS Parties' proposal to allow NGSs to include non-commodity charges on Columbia's utility bills raises complex consumer protection issues. (OCA St. No. 5-R at 8.)

IV. DESCRIPTION AND TERMS OF THE PARTIAL SETTLEMENT

In accordance with Rule 5.231 of the Commission's Rules of Practice and Procedure, 52 Pa.Code § 5.231, the parties explored the possibility of settlement. As a result of settlement discussions, the Joint Petitioners achieved a settlement in principle under which all but one issue, as discussed herein, was resolved. The Joint Petition, which is fully executed by Columbia, OCA, I&E, OSBA, CII, the NGS Parties, CAUSE-PA, CAAP and PSU, consists of 26 pages and Appendices A through M. The appendices include a description of the rate increase by rate class in Appendix A, the allocation of annual revenues by rate schedule based upon revenue requirement for the 12 months ended December 31, 2019 in Appendix B, the tariff

supplement describing the agreed-upon rates in Appendix C, and statements in support of settlement by Columbia, OCA, I&E, OSBA, CII, the NGS Parties, CAUSE-PA, CAAP, PSU, and Direct Energy in Appendices D through M.

The Joint Petitioners expressed their agreement with respect to the following issues. The Settling Parties have specifically agreed to the following settlement terms, as provided below, which are adopted without modification. The issue of whether Columbia will be permitted to continue to include on its bills a separate line item charge for non-commodity services elected by customers and offered by unaffiliated entities who are not NGSs without being required to allow NGSs access to Columbia's bills to charge customers for other non-commodity products and services that may be offered by NGSs was reserved for litigation.

The Joint Petitioners explained that the following terms of the Settlement reflect a carefully balanced compromise of the interests of all the Joint Petitioners in this proceeding. The Joint Petitioners unanimously agreed that the Settlement, which resolves all but the one issue regarding the billing of non-commodity products and services, is in the public interest. The Joint Petitioners respectfully request that the 2018 Base Rate Filing, including those tariff changes included in Supplement No. 267 and specifically identified in Appendix "C" attached to the Joint Petition, be approved subject to the terms and conditions of the Settlement specified below. (Joint Petition, p. 7.)

V. SETTLEMENT TERMS

A. Revenue Requirement

1. Rates will be designed to produce an increase in operating revenues of $26 million over current base rates based upon the pro forma level of operations for the twelve months ended December 31, 2019. (Joint Petition ¶ 26.)

2. The Company's 2018 income tax expense differential of approximately $23.8 million associated with the TCJA will be returned to customers in full over an eighteen

(18) month period beginning no later than December 16, 2018. The actual amount to be returned will be based on the actual liability booked by the Company in revenues for service rendered from January 1, 2018 through December 16, 2018. This amount will be refunded via a negative surcharge applied on a percentage basis to customers with interest using the residential mortgage lending rate specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law (41. P.S. §§ 101, et. seq.). Interest will be computed monthly on the actual regulatory liability balance from January 2018 until the month the balance is returned. The tax liability for December will be estimated and trued up in the final reconciliation of the refund. (Joint Petition ¶ 27.)

3. The revenue requirement agreed upon above also reflects a reduction to rate base for the excess ADIT (accumulated deferred income taxes) amount as of the end of the FPFTY. The Company agrees to continue such treatment in future base rate filings until the entire amount has been refunded in future years. (Joint Petition ¶ 28.)

4. As of the effective date of rates in this proceeding, Columbia will be eligible to include plant additions in the DSIC once eligible account balances exceed the levels projected by Columbia at December 31, 2019. The foregoing provision is included solely for purposes of calculating the DSIC, and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing. (Joint Petition ¶ 29.)

5. For purposes of calculating its DSIC, Columbia shall use the equity return rate for gas utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for gas utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa.C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa.C.S. § 1358(b)(1). (Joint Petition ¶ 30.)

6. Columbia will continue to use normalization accounting with respect to the benefits of the tax repairs deduction. It is agreed that Columbia has completed the amortization of the $37.4 million tax refund previously received by Columbia, which is

attributable to the change in method for the repairs deduction. Changes in the refund amount, above or below the $37.4 million, shall be reflected in accumulated deferred income taxes to be created under the normalization method of accounting. (Joint Petition ¶ 31.)

7. Columbia also will be permitted to continue to use normalization accounting with respect to the tax treatment of Section 263A mixed service costs. (Joint Petition ¶ 32.)

8. Columbia will be permitted to recover the amortization of costs related to the following:

(i) Blackhawk Storage – Continuation of the previously-approved 24.5-year amortization of the total amount of $398,865 to be included on books and in rate base as a regulatory asset to reflect the total original cost that began on October 28, 2008.

(ii) Corporate Services OPEB-Related Costs – Continuation of the previously-approved amortization of the regulatory asset of $903,131 associated with the transition of NiSource Corporate Services Company from a cash to accrual basis for OPEBs, over a ten-year period that began July 1, 2013.

(iii) For settlement purposes only, the Accounting Deferral Petition is granted. The pension prepayment in the amount of $8,449,772 shall be amortized over a ten-year period beginning December 16, 2018. Any unamortized balance shall not be permitted to be included in rate base in future rate base cases.[4] (Joint Petition ¶ 33.)

9. As established in the settlement of Columbia's base rate proceeding at R-2012-2321748, Columbia will be permitted to continue to defer the difference between the

[4] This term is for settlement purposes only. I&E continues to support its position presented in I&E Statements No. 1 and 1-SR, and the OCA maintains its position as stated in its Answer filed on January 25, 2018 in Docket No. P-2018-2641257.

annual OPEB expense calculated pursuant to FASB Accounting Standards Codification (ASC) 715, "Compensation – Retirement Benefits (SFAS No. 106) and the annual OPEB expense allowance in rates of $0. Only those amounts attributable to operation and maintenance would be deferred and recognized as a regulatory asset or liability. To the extent the cumulative balance recorded reflects a regulatory asset, such amount will be collected from customers in the next base rate proceeding over a period to be determined in that rate proceeding. To the extent the cumulative balance recorded reflects a regulatory liability, there will be no amortization of the (non-cash) negative expense and the cumulative balance will continue to be maintained. (Joint Petition ¶ 34.)

10. Commencing with the effective date of rates, Columbia will deposit amounts in the OPEB trusts when the cumulative gross annual accruals calculated by its actuary pursuant to ASC 715 are greater than $0. If annual amounts deposited into OPEB trusts, pursuant to the Settlement, exceed allowable income tax deduction limits, any income taxes paid will be recorded as negative deferred income taxes, to be added to rate base in future proceedings. (Joint Petition ¶ 35.)

11. On or before April 1, 2019, Columbia will provide the Commission's Bureau of Technical Utility Services (TUS), I&E, OCA and OSBA an update to Columbia Exhibit No. 108, Schedule 1, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ending December 31, 2018. On or before April 1, 2020, Columbia will update Exhibit No. 108, Schedule 1 filed in this proceeding for the twelve months ending December 31, 2019. In Columbia's next base rate proceeding, the Company will prepare a comparison of its actual revenue, expenses and rate base additions for the twelve months ended December 31, 2019. However, it is recognized by the Joint Petitioners that this is a black box settlement that is a compromise of Joint Petitioners' positions on various issues. (Joint Petition ¶ 36.)

12. Columbia will preserve and provide to I&E, OCA and OSBA as a part of its next base rate case the following: (1) all documentation supporting debt issued between this base rate case and the next base rate case; and (2) for each issuance the prevailing yield on U.S.

utility bonds as reported by Bloomberg Finance L.P. for companies with a credit risk profile equivalent to that of NiSource Finance Corp. (Joint Petition ¶ 37.)

13. Tariff rates will go into effect on December 16, 2018. (Joint Petition ¶ 38.)

B. Revenue Allocation and Rate Design

14. The Residential customer charge will be set at $16.75/month. (Joint Petition ¶ 39.)

15. Columbia's Weather Normalization Adjustment (WNA) pilot will continue as a pilot and will include a 3% deadband.[5] Columbia's proposal to exclude the month of October from the operation of the revised WNA also is accepted. For informational purposes, the Company shall continue to maintain and provide to the OCA, I&E and OSBA by October 1 of each year all reports and records supporting the operation of its WNA for the preceding year, including the Company's monthly computation of the WNA and all data underlying the Company's monthly WNA computation. (Joint Petition ¶ 40.)

16. Columbia's Revenue Normalization Adjustment (RNA) proposal has been withdrawn. (Joint Petition ¶ 41.)

17. The Company's Gas Procurement Charge (GPC) shall continue at the current rate of $0.00695/therm. (Joint Petition ¶ 42.)

18. The Merchant Function Charge (MFC) shall be 1.40342% for residential customers and 0.29613% for non-residential customers. These are the charges as filed by Columbia. The revised MFC rates shall be reflected in the Purchase of Receivables (POR) discount rates. (Joint Petition ¶ 43.)

[5] The 5% deadband will continue to be effective through January 2019 billing cycles. The 3% deadband will take effect on January 31, 2019.

19. The C&I Network will not be placed in service in 2019, and no charges will be imposed on customers in this proceeding related to the C&I Network, provided, further, that the foregoing is subject to the provisions of Paragraph 62. (Joint Petition ¶ 44.)

20. In its next base rate case, the Company agrees to make available for review, subject to an appropriate confidentiality agreement, updated competitive alternative analyses for the six flex-rate customers that have not had their alternative supply verified since 2008 and one customer that has not had their alternative supply verified since 2010 as described in I&E Statement No. 3, and justify the flex rate granted to each customer. (Joint Petition ¶ 45.)

21. In its next base rate proceeding, the Company agrees to segregate flex rate customers into a separate category in each of its filed cost allocation studies. The Company shall not be required, however, to allocate the revenue shortfall from the flex rate customer class to the regular rate classes as part of its cost allocation analysis. (Joint Petition ¶ 46.)

22. Revenue allocation to the classes is set forth in Appendix "A." Rate design for all classes shall be as set forth in Appendix "B." Revenue allocation and rate design reflect a compromise and do not endorse any particular cost of service study. (Joint Petition ¶ 47.)

C. Universal Service and Conservation

23. Columbia's proposal to use the residential portion of pipeline credits and refunds as a funding source for the Hardship Fund, while it continues to seek out additional funding from voluntary sources, is approved, consistent with the Order of the Pennsylvania Public Utility Commission entered June 14, 2018 at Docket No. P-2018-3000160. Columbia will provide a report in its next base rate proceeding on ideas developed and implemented to increase voluntary contributions to the Hardship Fund. In accordance with the terms of the Commission's Order at Docket No. P-2018-3000160, Columbia will place the residential portion of future federal pipeline credits and refunds toward the Hardship Fund, up to a maximum of $750,000. If the balance of credits and refunds exceeds $750,000, Columbia will flow the

residential portion of future credits and refund proceeds in excess of the amounts needed to maintain the balance at $750,000 to residential customers through Columbia's Purchased Gas Cost (PGC) rates. In the first PGC filing in which future pipeline credits and refunds are utilized to replenish the Hardship Fund balance, the Company shall provide, in testimony, the exact annual cost impact on an individual customer basis for the average usage customer and a comparison of the residential price-to-compare with and without utilized pipeline credits and refunds. All parties have the right to challenge usage of these funds in future proceedings and all parties retain the right to support continued use of those funds to support the Hardship Fund. (Joint Petition ¶ 48.)

24. Beginning with the 2020 Low Income Usage Reduction Program (LIURP) program year, the Company will increase its annual funding for LIURP by $125,000. Any unspent funds at the end of the year will be rolled over and added to the budget for the following year. This increase is incremental to the increase in operating revenues shown in Paragraph 1. LIURP funding will continue to be recovered under Columbia's Rider USP. Parties agree not to propose a change to Columbia's LIURP budget which would increase the budget amount prior to the end of LIURP program year 2021. (Joint Petition ¶ 49.)

25. The Company's procedures with respect to medical certifications have been, or shall be, revised as follows:

(a) The medical certificate language on termination notices has been revised to include the following language: "Make some equitable arrangement to pay the Company your current bills for service."

(b) The Company's policy on medical certificates has been revised to no longer require a medical certificate in the form provided by the Company, and now accept any written document from a doctor, physician's assistant or nurse practitioner, as long as the required content for medical certification is provided.

(c) The Company's call center scripts will be revised only to require that the customer make an equitable arrangement for payment of the current bill when a medical certificate is used, rather than to request household size and income information.

(d) Requests to use a third or subsequent medical certificate renewal will be granted if the customer's current bill or budget bill amount is paid in full by the due date. Customers with medical certificates will be advised that if they continue to pay their current bill or budget bill, they can continue to renew their medical certificates. (Joint Petition ¶ 50.)

26. By January 1, 2020, the Company will design and implement a process, in co-ordination with its Customer Assistance Program (CAP) administrator, to facilitate the electronic submission of income verification to enroll in CAP and/or to comply with recertification requirements. (Joint Petition ¶ 51.)

27. The Company will allow year-round rolling enrollment for its budget billing program and shall modify its related tariff language accordingly in its compliance filing. Columbia agrees to further review the budget billing proposals of Mr. Colton and provide an analysis in its next rate case of the costs and timing to adopt further modifications. (Joint Petition ¶ 52.)

28. Columbia will promote the budget plan to each customer upon successful completion of a deferred payment plan. The nature of the promotion will be discussed and agreed to within the Universal Services Advisory Council. (Joint Petition ¶ 53.)

29. Columbia agrees to engage in specific budget billing outreach to accounts, both low-income and residential generally, that experience short-term arrears during the Company's high cost months. The nature of the outreach will be discussed and agreed to within Columbia's Universal Services Advisory Council (USAC). (Joint Petition ¶ 54.)

30. Columbia agrees to continue to review the list of customers with high CAP credits (over $1,000) from the prior year and prioritize those customers for weatherization when possible. Once this list has been exhausted, Columbia will use the high usage CAP customer list as well as eligible customers requesting weatherization. This prioritization will continue unless and until Columbia evaluates the cost-effectiveness of the prioritization; reviews that evaluation with stakeholders; and all parties agree that the prioritization is not cost-effective. (Joint Petition ¶ 55.)

31. Columbia's proposal to decline to impose a limitation on the eligibility to receive a Hardship Fund grant to households with income between 151% and 200% of Poverty is approved. (Joint Petition ¶ 56.)

32. Following release of the Commission's Energy Burden Study, Columbia will present information to its USAC about how Columbia's then-current payment selection options address the issues raised by the Energy Burden Study. By no later than its next Universal Service and Energy Conservation Plan (USECP) filing following issuance of the Energy Burden Study or earlier date dictated by the Commission's Energy Burden Study (whichever is sooner), Columbia will make such filing as required by the Energy Burden Study to modify or change its CAP rate selection. Columbia will serve a copy of this filing on all parties to this proceeding. In the interim, Columbia agrees to conduct a bi-annual review of accounts enrolled on the average of payments and percent of bill CAP payment plan options that exceed the maximum energy burden recommended by the Commission in the CAP Policy Statement. The Company will change each account to a lower payment plan option, if available. (Joint Petition ¶ 57.)

33. To the extent terms of the settlement warrant changes to the Company's USECP, within 90 days of receiving a final order in this proceeding, the Company will submit a Petition to the Commission to modify its USECP consistent with the provisions of the Settlement. (Joint Petition ¶ 58.)

34. Other universal service issues raised by CAUSE-PA, CAAP and OCA, not addressed by the Settlement, shall be presented to Columbia's USAC for discussion and identification of potential solutions. (Joint Petition ¶ 59.)

D. Natural Gas Supplier Issues

35. Within sixty (60) days of the filing of a settlement in this proceeding, Columbia shall convene a collaborative (Collaborative-I) with the parties to this proceeding and all interested General Delivery Service customers/Suppliers on its system to discuss operational and/or rule and tariff changes relative to operational orders, delivery quantities, and supplier access to customer usage information which would be in lieu of the current installation of the C&I Network.

(a) Such operational and/or rule/tariff changes could include, but would not be limited to:

(i) A revised operational order process for customers with daily read meters. Specifically, Columbia proposes that on an annual basis customers with daily read meters, or their agents, shall have the right to elect to be subject to Operational Flow Orders (OFOs), rather than Operational Matching Orders (OMOs), on days when operational orders are issued. Daily metered customers or their agents that elect to be subject to OFOs will be required to schedule supplies equal to the percentage of the customer's Maximum Daily Quantity (MDQ) called by Columbia, subject to the provisions of Elective Balancing Service (EBS) and Columbia's Rules Applicable to Distribution Service.

(ii) A revised method for establishing MDQs, which may include the use of multiple years of usage data and/or design day usage and creating a more uniform methodology as between sales and transportation customers.

(iii) Parameters for establishing the needed % of MDQ to satisfy OFOs, with timelines and triggers for the elimination or amelioration of the OFO.

In addition, the Collaborative-I will also consider ways in which to improve the accuracy and timeliness of customer usage data including installing telemetering or equivalent equipment. (Joint Petition ¶ 60.)

36. Within 150 days of convening Collaborative-I, Columbia will file tariff changes to implement the solutions which Columbia and a general consensus of the participants (but not necessarily all) agree to. All parties retain their rights to support or oppose the tariff filing. (Joint Petition ¶ 61.)

37. If: (1) despite the good faith efforts of participants no tariff is filed within the timeline set forth above (or any extension to which all collaborative participants agree); or (2) a tariff is filed that is not supported by Direct Energy; or (3) the Commission does not approve the tariff filing, Direct Energy retains the right to file a complaint against Columbia with the sole issue being an allegation that Columbia has failed to comply with the C&I Network Installation provisions of the 2016 Rate Case Settlement and remedies for the alleged non-compliance. The Parties agree that they shall treat such complaint as if it were filed in the context of Columbia's rate case, including:

(a) Columbia shall retain the burden of proof to show that it has complied or should not be required to comply with the 2016 Settlement;

(b) The testimony and exhibits developed in the above proceeding will be used to resolve the complaint, with the right for Columbia to submit rejoinder testimony on the issue and the rights of parties to cross-examination;

(c) Neither Columbia nor any other Party shall raise any procedural objection to the complaint including, but not limited to an allegation that Direct Energy has waived its right to raise this issue, a claim that the issue should have been raised in

some other form or proceeding or a claim that no remedy can be provided because no Columbia rate case is pending; provided, however, that Columbia may continue to contend that implementation should be conditioned upon a Commission Order authorizing the recovery of C&I Network Installation costs; and

(d) All parties will request expedited treatment of the complaint. (Joint Petition ¶ 62.)

38. Upon completion of the above Collaborative-I, Columbia shall continue to hold quarterly Collaborative Meetings (Collaborative-II) for a minimum of two years, and thereafter as appropriate, to which all parties to this proceeding, all interested Suppliers and representatives of interstate pipelines shall be invited. At these meetings, Suppliers shall raise issues encountered on the Columbia system. Columbia shall also notify participants about any changes it is planning to make in GTS or Choice transportation rules. At the end of each meeting, Columbia shall produce minutes of the meeting consisting of a short summary together with action items, which shall be shared with all participants. (Joint Petition ¶ 63.)

39. Columbia agrees to reduce the penalty multiple for violation of OMO/OFOs from three times to one and one-half times. This change may be further reviewed in the collaborative as a component of alternative proposals for managing OFO/OMOs. If Columbia experiences substantially higher non-compliance with OFO/OMO requirements as a result of the lower multiplier, it reserves the right to seek to modify the penalty multiplier in a subsequent base rate case. (Joint Petition ¶ 64.)

40. Columbia agrees to change the rate structure for bank balance transfers from a per unit fee to a flat $10 per transaction fee and gas transfers through the electronic bulletin board to a flat $15 per transaction fee. (Joint Petition ¶ 65.)

E. Other

41. Except as otherwise modified by the Settlement, the Company's proposed tariff changes are approved, as set forth in Appendix "C". (Joint Petition ¶ 66.)

F. Request For Litigation

42. The Joint Petitioners have reserved for litigation the issue of whether Columbia will be permitted to continue to include on its bills a separate line item charge for non-commodity services elected by customers and offered by unaffiliated entities who are not NGSs, without being required to allow NGSs access to Columbia's bills to charge customers for non-commodity products and services that may be offered by NGSs. (Joint Petition ¶ 67.)

G. Conditions of Partial Settlement

43. The Settlement is conditioned upon the Commission's approval of the terms and conditions contained in the Partial Settlement without modification. If the Commission modifies the Settlement, then any Joint Petitioner may elect to withdraw from the Settlement and may proceed with litigation and, in such event, the Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of any Order modifying the Settlement. (Joint Petition ¶ 71.)

44. The Joint Petitioners acknowledge and agree that the Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated these proceedings resulting in the establishment of rates that are Commission-made, just and reasonable rates. (Joint Petition ¶ 72.)

45. The Settlement and its terms and conditions may not be cited as precedent in any future proceeding, except to the extent required to implement the Settlement. (Joint Petition ¶ 73.)

46. The Commission's approval of the Settlement shall not be construed to represent approval of any Joint Petitioner's position on any issue, except to the extent required to effectuate the terms and agreements of the Settlement in these and future proceedings involving Columbia. (Joint Petition ¶ 74.)

47. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise, and does not necessarily represent the position(s) that would be advanced by any Joint Petitioner in these proceedings if they were fully litigated. (Joint Petition ¶ 75.)

48. The Settlement is being presented only in the context of these proceedings in an effort to resolve the proceedings in a manner which is fair and reasonable. The Settlement is the product of compromise between and among the Joint Petitioners. The Settlement is presented without prejudice to any position that any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings except to the extent necessary to effectuate the terms and conditions of the Settlement. The Settlement does not preclude the Joint Petitioners from taking other positions in proceedings involving other public utilities under Section 1308 of the Public Utility Code, 66 Pa.C.S. § 1308, or any other proceeding. (Joint Petition ¶ 76.)

49. The Joint Petitioners recognize that the proposed Settlement does not bind Formal Complainants that do not choose to join herein. A copy of the proposed Settlement and attached Appendices hereto, including Statements in Support, are simultaneously being served upon all Formal Complainants in this proceeding. (Joint Petition ¶ 77.)

50. If the Administrative Law Judge adopts the Settlement without modification, the Joint Petitioners waive their individual rights to file exceptions with regard to the Settlement. Joint Petitioners retain their rights to file briefs, exceptions and replies to exceptions with respect to the issue reserved for litigation. (Joint Petition ¶ 78.)

VI. DISCUSSION

A. Applicable Legal Principles

The Commission encourages parties in contested on-the-record proceedings to settle cases. See 52 Pa.Code § 5.231. Settlements eliminate the time, effort and expense of litigating a matter to its ultimate conclusion, which may entail review of the Commission's decision by the appellate courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily imposes.

By definition, a "settlement" reflects a compromise of the parties' positions and arguably fosters and promotes the public interest. When parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest. *Pa. Pub. Util. Comm'n v. CS Water and Sewer Associates*, 74 Pa. PUC 767, 771 (1991).

In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co*., Docket No. R-00049165 (Order entered October 4, 2004); *Pa. Pub. Util. Comm'n v. CS Water and Sewer Assoc*., 74 Pa. PUC 767 (1991).

The Settlement Agreement is a "Black Box" agreement, which does not specifically identify the resolution of certain disputed issues.[6] Instead, an overall increase to base rates is agreed to and Joint Petitioners retain all rights to further challenge all issues in subsequent proceedings. A "Black Box" settlement benefits ratepayers as it allows for the resolution of a proceeding in a timely manner while avoiding significant additional expenses.[7]

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6 *See Id.* at 11.

7 *See Id.*

On January 5, 2018, Columbia filed a Petition for Authorization to Defer, for Accounting Purposes, Certain Costs Associated with a Prepayment of $8,449,772 to the NiSource, Inc. Pension Trust, at Docket No. P-2018-2641257. As part of the Partial Settlement, this proceeding is also resolved.

B. Statements of the Settling Parties in Support of the Settlement

In the Partial Settlement, the Settling Parties have agreed that the terms of the Settlement reflect a carefully balanced compromise of the interests of all the Joint Petitioners in this proceeding. The Joint Petitioners unanimously agree that the Settlement, which resolves all but the one issue regarding the billing of non-commodity products and services, is in the public interest. The Joint Petitioners respectfully request that the 2018 Base Rate Filing, including those tariff changes included in Supplement No. 267 and specifically identified in Appendix "C" attached to the Joint Petition, be approved subject to the terms and conditions of the Settlement specified in the Joint Petition. (Joint Petition ¶ 25.)

The Partial Settlement was achieved only after a comprehensive investigation of the issues presented in this proceeding. In addition to a comprehensive filing and substantial formal and informal discovery, various Parties responded to numerous formal discovery requests and exchanged information or served testimony and accompanying exhibits, which were subsequently admitted into the record at the evidentiary hearing held on July 26, 2018. The Joint Petitioners participated in numerous settlement discussions and formal negotiations, which ultimately led to the Partial Settlement. (Joint Petition ¶ ¶ 16, 21.)

The Settlement, if approved, will resolve all but one issue raised by the Joint Petitioners in this proceeding. The settled issues include revenue requirement, revenue allocation, rate design, universal service matters, natural gas supplier issues, and other issues.

Finally, the active parties in this proceeding, and their counsel and experts, have considerable experience in rate proceedings. Their knowledge, experience, and ability to

evaluate the strengths and weaknesses of their litigation positions provided a strong foundation upon which to build a consensus on the settled issues.

For the Commission's consideration the Settling Parties submitted separate Statements in Support of the Settlement Petition. In their Statements, Columbia, OCA, I&E, OSBA, the NGS Parties, CAUSE-PA, PSU, CAAP and Direct Energy conclude, after extensive discovery and discussion, that the Partial Settlement is in the interests of Columbia and its customers, and is otherwise in the public interest.

Noting there is no objection to the Partial Settlement, the positions of the Settling Parties are summarized below.

C. Revenue Requirement

1. Columbia's Position

Columbia explains that it has made, and continues to make, unprecedented and substantial capital investments in its system. (Columbia Statement No. 1, pp. 6-12.) According to Columbia, since Columbia started its accelerated pipeline replacement program in 2007, Columbia has replaced over 931 miles of cast iron and bare steel (CIBS) pipe. (Columbia Statement No. 1, p. 7.) In 2017 alone, Columbia replaced over 96 miles of CIBS pipe. (Columbia Statement No. 1, p. 7.) Columbia plans to maintain or increase its capital expenditures in the 2018 to 2022 timeframe, with a planned spending program ranging between $284 and $345 million budgeted annually for line replacement over the 5-year period. (Columbia Statement No. 1, p. 9; Standard Data request GAS-ROR-014; Columbia Statement in Support, p. 4.)

In addition to capital costs associated with Columbia's accelerated pipeline replacement effort, the Company asserts it is incurring operating and maintenance costs associated with maintaining pipeline safety on its system. These costs further contribute to the level of the revenue increase in this case. (Columbia Statement No. 1, pp. 6-7.) Columbia

explains it is implementing a customer value initiative focusing on long-term affordability to ensure that every dollar of revenue delivers the maximum value possible for Columbia's customers. (Columbia Statement No. 1, p. 12; Columbia Statement in Support, p. 4.)

Given the entire Settlement, Columbia asserts that the revenue requirement is reasonable and will provide the Company with the additional revenues that are necessary to provide reliable service to customers. In addition, Columbia explains that the Settlement appropriately balances the need of the Company to have an opportunity to earn a reasonable rate of return with its customers' need for reasonable rates. Finally, Columbia notes that the Commission's resolution of the issue reserved for litigation does not affect or otherwise alter the agreed upon revenue requirement amount identified in the Settlement, as the reserved issue concerns the billing of third-party non-commodity charges on Columbia's bills and does not affect base rates. (Columbia Statement in Support, p. 6.)

a. Return of Income Tax Expense Differential

On March 15, 2018, the Commission issued an order at Docket No. M-2018-2641242, establishing the then-current rates of certain public utilities as temporary rates, in response to the TCJA of 2017. On April 20, 2018, Columbia filed supplemental direct testimony, which calculated the effect of the TCJA on Columbia's 2018 tax liability. Columbia's original rate filing had included the prospective effect of the TCJA in calculating Columbia's proposed revenue requirement. On May 17, 2018, at Docket No. M-2018-2641242, the Commission issued a further order directing certain utilities to establish temporary rates in the form of a negative surcharge effective July 1, 2018. In that Order, the Commission exempted Columbia from filing a negative surcharge because of Columbia's pending base rate case. The Commission further stated:

> Accordingly, the Commission expects the public utility and the parties in each such proceeding to address the effects of the federal tax reduction on the justness and reasonableness of the consumer rates charged during the term of the suspension period, and, in particular, whether a retroactive

surcharge or other measure is necessary to account for the tax rate changes that became effective on January 1, 2018.

(May 17, 2018 Order at pp. 20-21; Columbia Statement in Support, pp. 6-7.)

Columbia proposed to defer the start of the refund period for up to three years, due to concerns with cash flow and adverse credit ratings, while OCA advocated a one-time credit and I&E proposed a one-year refund beginning with the effective date of rates. (Columbia Statement No. 10-S, pp. 3-6; OCA Statement No. 1, pp. 57-59; I&E Statement No. 1, pp. 50-57; Columbia Statement in Support, p. 7.)

b. Distribution System Improvement Charge (DSIC)

The Commission approved Columbia's DSIC by Order entered May 22, 2014, at Docket No. P-2012-2338282. With the DSIC, plant additions not included in base rates may be reflected in the DSIC calculation. Therefore, for future DSIC purposes, Columbia explains it is necessary to establish relevant plant balances for the Company out of this proceeding. The Settlement provides that following the effective date of rates in this proceeding, Columbia will be eligible to include plant additions in the DSIC once eligible account balances exceed the levels projected by Columbia at December 31, 2019. (Settlement ¶ 29.) The Joint Petitioners agree that this provision is included solely for purposes of calculating the DSIC, and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a fully-projected future test year filing. (Settlement ¶ 29; Columbia Statement in Support, pp. 8-9.)

The Settlement also provides that, for purposes of calculating its DSIC, Columbia shall use the equity return rate for gas utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for gas utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa.C.S. § 1357(b)(3), until such time

as the DSIC is reset pursuant to the provisions of 66 Pa.C.S. § 1358(b)(1). (Settlement ¶ 30[8]; Columbia Statement in Support, p. 9.)

c. Tax Repair Allowance and Mixed Service Cost Normalization Treatment

According to Columbia, in 2008, Columbia sought and obtained permission from the Internal Revenue Service to change its definition of "unit of property" for tax purposes. This enabled Columbia to deduct certain expenditures on its tax return rather than capitalize them and resulted in a tax refund of $37.4 million for Columbia's customers. As agreed in the settlement of Columbia's 2010 rate case at Docket No. R-2009-2149262, a refund of the $37.4 million was made to customers, which reflects the cash benefit received in 2009 for the tax year 2008 method change.

Under the Settlement, Columbia will continue to use normalization accounting with respect to the benefits of the tax repairs deduction. The Settlement reflects the Joint Petitions' agreement that Columbia has completed the amortization of the $37.4 million tax refund previously received by Columbia, which is attributable to the change in method for the repairs deduction. Changes in the refund amount, above or below the $37.4 million, shall be reflected in accumulated deferred income taxes to be created under the normalization method of accounting. (Settlement ¶ 31.) The Settlement continues prior agreements that subsequent changes in the refund amount, above or below the $37.4 million, shall be reflected in ADIT to be created under the normalization method of accounting. (Settlement ¶ 31; Columbia Statement in Support, pp. 9-10.)

As reflected in the Settlement, Columbia has completed the amortization of the full amount of the $37.4 million tax refund previously received by Columbia and has done so in a manner consistent with prior Commission-approved settlement agreements, which provided that the amortization would be without interest and without a deduction of the unamortized

[8] In the Order entered December 10, 2014, approving the settlement in Columbia's 2014 base rate proceeding at Docket No. R-2014-2406274, the Commission stated that base rate settlements must stipulate a Return on Equity (ROE) for DSIC purposes. (Order at p. 15.) The Commission noted that one option is to stipulate that the ROE for DSIC purposes will track the equity return rate from the most recent Commission staff Quarterly Report.

balance from rate base. This Settlement provision acknowledges that the full amount of the $37.4 million has been returned to Columbia's customers.

The Joint Petitioners have also agreed that Columbia will continue to use normalization accounting with respect to the tax treatment of Internal Revenue Code Section 263A mixed service costs (MSC). (Settlement ¶ 32.) This is similar to the treatment of book versus tax time differences for the repairs deduction. (Columbia Statement No. 9, p. 11.) This treatment was established in the settlement of Columbia's 2012 rate case at Docket No. R-2012-2321748, and was unopposed in this proceeding. The Parties have agreed that such treatment will continue.

d. Amortizations

i. Blackhawk Storage

Columbia explains the Settlement specifies the continued amortization of costs related to Blackhawk Storage. This amortization was established in Columbia's 2008 rate case settlement at Docket No. R-2008-2011621 and will continue. (Settlement ¶ 33(i).) No party objected to the Company's inclusion of this amortization amount in its rate filing. (Columbia Statement in Support, pp. 10-11.)

This amortization is a continuation of a previously approved amortization, and was unopposed by any party. (Columbia Statement in Support, p. 11.)

ii. Other Post-Employment Benefits (OPEB) Expense

The Settlement includes provisions concerning accounting for Columbia's ongoing contributions to trusts for Other Post-Employment Benefits (OPEBs) which were established in the settlement of Columbia's 2012 base rate case at Docket No. R-2012-2321748. (Columbia Statement No. 4, p. 22.) These provisions were unopposed by any party, and confirm the ongoing treatment of OPEB expense. Columbia will continue to defer the difference

between the annual OPEB expense calculated pursuant to FASB Accounting Standards Codification (ASC) 715, "Compensation – Retirement Benefits" (SFAS No. 106) and the annual OPEB expense allowance in rates of $0. Only those amounts attributable to operation and maintenance would be deferred and recognized as a regulatory asset or liability. To the extent the cumulative balance recorded commencing with the effective date of rates reflects a regulatory asset, such amount will be collected from customers in the next rate proceeding over a period to be determined in that rate proceeding. In addition, to the extent the cumulative balance recorded commencing with the effective date of rates reflects a regulatory liability, there will be no amortization of the (non-cash) negative expense, and the cumulative balance will continue to be maintained. (Settlement ¶ 34.) The Settlement provides that Columbia will deposit amounts in the OPEB trusts when the cumulative gross annual accruals calculated by its actuary pursuant to ASC 715 are greater than $0. If annual amounts deposited into OPEB trusts, pursuant to this Settlement, exceed allowable income tax deduction limits, any income taxes paid will be recorded as negative deferred income taxes, to be added to rate base in future proceedings. (Settlement ¶ 35; Columbia Statement in Support, pp. 11-12.)

Pursuant to the Opinion and Order entered on May 24, 2012, at Docket No. P-2011-2275383, Columbia deferred, for accounting and financial reporting purposes, the one-time expense of $903,131 associated with its allocated share of NiSource Corporate Services Company's (NCSC) OPEB regulatory asset resulting from NCSC's transition from cash basis to accrual. In the settlement of the 2012 Columbia base rate case at Docket No. R-2012-2321748, Columbia was allowed to recover the total deferred amount of $903,131 over a ten-year period that began on July 1, 2013. This Settlement continues the ten-year amortization established in the 2012 rate proceeding. (Settlement ¶ 33 (ii); Columbia Statement in Support, pp. 11-12.)

iii. Pension Prepayment

On January 5, 2018, Columbia filed a Petition for Authorization to Defer, for Accounting Purposes, Certain Costs Associated with a Prepayment of $8.45 million to the NiSource, Inc. Pension Trust, at Docket No. P-2018-2641257 (Accounting Deferral Petition). The Accounting Deferral Petition was consolidated with the 2018 Base Rate Filing, which

included a claim to recover the prepayment. In the 2018 Base Rate Filing, Columbia requested that it be permitted to amortize and recover the $8.45 million over a period of three years. (Columbia Statement No. 10, pp. 16-17; Columbia Statement in Support, p. 12.)

Columbia explains that NiSource, Columbia's ultimate parent Company, and its subsidiaries operate a combined pension plan. Each subsidiary makes an annual contribution to the plan based on information from NiSource's pension actuary. In mid-2017, it was determined that NiSource's qualified pension plans were 82% underfunded, with an underfunded balance of approximately $381 million at December 31, 2016. Two options were considered to address the underfunded balance. One option was to increase the annual funding amount. Anticipated contributions for the combined pension plans from 2018 through 2024 would have averaged $45 million per year. The other option was to fully fund the pension with a prepayment to the pension plan trust. According to Columbia its share of this prepayment contribution was $14.824 million. Columbia asserts this option would reduce the likelihood of anticipated future contributions, as well as future debt issuances and intercompany financing that would be needed if the annual funding amount were increased. NiSource elected to make the one-time prepayment contribution. For ratemaking purposes, Columbia's $8.45 million claim for pension expense is based upon the O&M proportion of a normalized pension contribution, with the remaining portion of the pension cost being capitalized. (Columbia Statement No. 10, pp. 17-20; Columbia Statement in Support, pp. 12-13.)

e. Future Debt Issuances

Columbia explains that I&E proposed that certain information be provided to the statutory parties following the actual issuances of debt projected for the Future Test Year and FPFTY. (I&E Statement No. 2, pp. 12-13.) Under the Settlement, Columbia agrees that, it will preserve and provide to I&E, OCA and OSBA as a part of its next base rate case the following: (1) all documentation supporting debt issued between this base rate case and the next base rate case; and (2) for each issuance the prevailing yield on U.S. utility bonds as reported by

Bloomberg Finance L.P. for companies with a credit risk profile equivalent to that of NiSource Finance Corp. (Settlement ¶ 37; Columbia Statement in Support, p. 15.)

2. OCA's Position

OCA notes that the Settlement provides for an "increase in operating revenues of $26 million over current base rates based upon the pro forma level of operations for the twelve months ended December 21, 2019," which is approximately $20.9 million less than the $46.9 million increase requested by Columbia in its original filing. Settlement at ¶ 23, 26.

Moreover, for purposes of calculating the Distribution System Improvement Charge (DSIC), "Columbia will be eligible to include plant additions in the DSIC once eligible account balances exceed the levels projected by Columbia at December 31, 2019." Settlement at ¶ 29. The OCA notes that this provision results in Columbia realizing a higher level of plant investment before any incremental expenditures can be recovered through the DSIC. (OCA Statement in Support, p. 4.)

Based on the OCA's analysis of the Company's filing, responses to discovery, and testimony submitted by all parties, the rate increase under the proposed Settlement represents a result that is within the range of likely outcomes in the event of full litigation of this case. The OCA submits that the increase is appropriate and, when accompanied by the other terms of this Settlement, yields a result that is just and reasonable and in the public interest. (OCA Statement in Support, p. 5.)

a. Tax Cuts and Jobs Act of 2017

OCA submits that the Settlement provisions are consistent with the Commission's Order addressing the TCJA, which provided that the "tax savings and associated reductions in utility revenue requirements should be flowed back to consumers on a current basis." Tax Cuts and Jobs Act of 2017, Docket No. M-2018-2641242 (Temporary Rates Order entered May 17, 2018, at 15). The Commission's Order further stated that, with regard to utilities with pending

base rate cases, the Commission "expects the public utility and the parties in each such proceeding to address the effect of the federal tax rate reduction on the justness and reasonableness of the consumer rates charged during the term of the suspension period and, in particular, whether a retroactive surcharge or other measure is necessary to account for the tax rate changes." *Id*. at 20-21. The Commission noted that this approach applies to Columbia. *Id.* at 21. OCA also notes that the interest provision of the proposed Settlement reflects the treatment of interest directed by the Commission for other utilities in its Order. (*Id.* at 18, 23; OCA Statement in Support, pp. 5-6.)

3. I&E's Position

I&E explains that it agreed to settlement in the amount of $26 million only after I&E conducted an extensive investigation of Columbia's filing and related information obtained through the discovery process to determine the amount of revenue Columbia needs to provide safe, effective, and reliable service to its customers. The additional revenue in this proceeding is base rate revenue and has been agreed to in the context of a "Black Box" settlement with limited exceptions. I&E notes that the prior Chairman of the Commission explained that black box settlements are beneficial in this context because of the difficulties in reaching an agreement on each component of a company's revenue requirement calculation, when he stated, the "[d]etermination of a company's revenue requirement is a calculation that involves many complex and interrelated adjustments affecting revenue, expenses, rate base and the company's cost of capital. To reach an agreement on each component of a rate increase is an undertaking that in many cases would be difficult, time-consuming, expensive and perhaps impossible. Black Box settlements are an integral component of the process of delivering timely and cost-effective regulation."[9] (I&E Statement in Support, pp. 6-7.)

[9] *See,* Statement of Commissioner Robert F. Powelson, *Pa. Pub. Util. Comm'n v. Wellsboro Electric Company,* Docket No. R-2010-2172662 (Ordered entered Jan. 13, 2011). *See also,* Statement of Commissioner Robert F. Powelson, *Pa. Pub. Util. Comm'n v. Citizens' Electric Company of Lewisburg, PA,* Docket No. R-2010-2172665 (Order entered Jan. 13, 2011).

I&E asserts this increased level of "Black Box" revenue adequately balances the interests of ratepayers and Columbia. Columbia will receive sufficient operating funds in order to provide safe and adequate service while ratepayers are protected as the resulting increase minimizes the impact of the initial request. According to I&E, mitigation of the level of the rate increase benefits ratepayers and results in "just and reasonable rates" in accordance with the Public Utility Code, regulatory standards, and governing case law.[10] (I&E Statement in Support, p. 7.)

a. Income Tax Differential

The Joint Petitioners have agreed that approximately $23.8 million associated with the Tax Cuts and Jobs Act of 2017 will be returned to customers in full over an eighteen-month period beginning no later than December 16, 2018. Interest will also be calculated monthly on the actual regulatory liability balance starting January 2018 until the balance is returned. I&E explains this term represents a compromise between the Company and other parties. I&E believes that the eighteen-month refund including interest is within the public interest and adheres to the Commission Order[11] regarding TCJA. (I&E Statement in Support, pp. 7-8.)

b. Pension Prepayment Accounting Deferral

In this proceeding, I&E recommended that the pension deferral amortization claim be disallowed or, in the alternative, if it were to be allowed be amortized over ten years.[12] I&E supports the settlement of this issue.

4. OSBA's Position

OSBA explains the Joint Petition reflects the application of the Company's 2018 TCJA income tax savings of approximately $23.8 million, which will be returned to customers in

[10] 66 Pa.C.S. § 1301.

[11] Order entered May 17, 2018 at Docket No. M-2018-2641242.

[12] I&E St. No. 1, p. 40.

full over an eighteen (18) month period beginning no later than December 16, 2018. These savings are credited to customers through the Federal Tax Adjustment Credit (FTAC) shown in the Redline Tariff for Settlement in the rate summary pages, and represents approximately 3.5 percent of distribution revenues. The exact magnitude of the credit will be established based on the actual 2018 liability booked by the Company through December 16, 2018. (OSBA Statement in Support, pp. 4-5.)

While the OSBA did not submit testimony relating to the overall revenue requirement, the OSBA makes note of paragraph 28 of the Joint Petition, wherein the parties agree that excess ADIT resulting from the TCJA will be a credit to rate base, and will continue to be a credit to rate base until the excess ADIT is fully refunded to customers. OSBA explains that excess ADIT represents tax costs that have been included in rates but which were deferred by the Company, and which will no longer need to be paid as a result of the reduction in corporate tax rates. Since the tax costs associated with excess ADIT were previously included in rates, they should reasonably remain a credit to rate base. The Joint Petition therefore, according to OSBA, correctly reflects this ratemaking treatment. (OSBA Statement in Support, p. 5.)

5. NGS Parties' Position

The NGS Parties did not specifically address this issue.

6. Pennsylvania State University's Position

Pennsylvania State University notes that in the Settlement, the Joint Petitioners have proposed that the increase for the Large Distribution Service (LDS) and Large General Sales Service (LGSS) classes is $999,929, which is less than the $2,130,154 increase originally proposed by the Company. (Pennsylvania State University Statement in Support, p. 3.)

Pennsylvania State University expressed concern about attempts by certain parties to favor outdated cost of service methodologies that incorrectly treat customers or customer classes with superior load factors the same as customers or customer classes with poor load

factors or fail to recognize the benefit of Flex service to all customers and allocate it as such, but supports the settlement as a compromise of competing positions that results in the rate of return of the LDS/LGSS class being closer to the system average rate of return than it would under the Company's original proposal. Pennsylvania State University asserts that movement of class rates of return to the system average rate of return is consistent with the requirement of *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010 (Pa.Cmwlth. 2006), that rate structures be gradually adjusted to move the class rate of return closer to the system average rate of return, thus causing rates to reflect the cost of providing service to each rate class and eliminating cross-subsidization. Columbia agreed in its next base rate proceeding to segregate flex rate customers into a separate category in each of its filed cost allocation studies. (Pennsylvania State University Statement in Support, p. 3.)

Pennsylvania State University asserts that it supports the settlement because it satisfactorily addresses natural gas supplier and General Delivery Service customer issues as a compromise of competing positions. (Pennsylvania State University Statement in Support, p. 4.)

7. CAAP's Position

CAAP did not specifically address this issue.

8. Direct Energy's Position

Direct Energy did not specifically address this issue.

9. CAUSE-PA's Position

CAUSE-PA explains that it did not take a position in this proceeding on the revenue requirement, or the components thereof, except to explain the detrimental impact of any increase in the Company's revenue requirement on low-income residential consumers generally. CAUSE-PA focused its case on the need to appropriately remediate any resultant increase in the Company's residential distribution rates through equitable rate design and the adoption of

enhancements to available universal service programming. (CAUSE-PA Statement in Support, p. 5.)

10. CII's Position

CII asserts that the $26 million rate increase achieved in the Joint Petition is just, reasonable and in the public interest. (CII Statement in Support, p. 3.)

D. Analysis

The Settlement provides for rates to be designed to produce an increase in operating revenues of $26 million over current base rates based upon the pro forma level of operations for the twelve months ended December 31, 2019. (Settlement ¶ 26.) The $26 million increase in tariff rates will go into effect on December 16, 2018, which is the effective date of rates under the Commission's April 5, 2018 suspension order. (Settlement ¶ 38.) The Settlement increase is approximately 55% of Columbia's original request of $46.9 million. (Columbia Exhibit 102, Sch. 3, p. 3.) The Settling Parties agree that the $26 million increase, although less than that requested by the Company, will enable the Company to continue to provide safe and reliable service to its customers.

In order to provide ongoing information concerning Columbia's capital investments, Columbia has agreed that on or before April 1, 2019, it will provide the Commission's Bureau of Technical Utility Services (TUS), I&E, OCA and OSBA with an update to Columbia Exhibit No. 108, Schedule 1, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ending December 31, 2018. (Settlement ¶ 36.) On or before April 1, 2020, Columbia will update Exhibit No. 108, Schedule 1 for the twelve months ending December 31, 2019. (Settlement ¶ 36.) Also, as part of the Company's next base rate proceeding, the Company will prepare a comparison of its actual revenue, expenses and rate base additions for the twelve months ended December 31, 2019. (Settlement ¶ 36.) However, it is recognized by the Joint Petitioners that this black box settlement is a compromise of Joint Petitioners' positions on various issues.

In this proceeding, Columbia, I&E and OCA presented extensive testimony on Columbia's overall revenue requirement and related issues. The Settlement revenue increase of $26 million reflects a reasonable compromise of Joint Petitioners' positions in this proceeding. Columbia notes that in its rebuttal testimony, it took issue with virtually all of the proposed adjustments advanced by I&E and OCA. The Joint Petitioners, while supporting their revenue requirement positions for litigation purposes, recognized that the Commission likely would have accepted certain adjustments proposed by Joint Petitioners, but would not have accepted all of the adjustments.

Under the Settlement, with only a few select exceptions set forth in the Settlement, the settlement revenue requirement is a "black box" amount. Under a "black box" settlement, parties do not specifically identify revenues, expenses and returns that are allowed or disallowed. Columbia asserted that "black box" settlements facilitate agreements, as parties are not required to identify a specific return on equity or identify specific revenues and/or expenses that are allowed or disallowed.

Considering the entire Settlement, the Joint Petitioners assert that the revenue requirement is reasonable and will provide the Company with the additional revenues that are necessary to provide reliable service to customers, and balances the need of the Company to have an opportunity to earn a reasonable rate of return with its customers' need for reasonable rates, and is in the public interest. Finally, resolution of the issue reserved for litigation does not affect or otherwise alter the agreed upon revenue requirement amount identified in the Settlement, as the reserved issue concerns the billing of third-party non-commodity charges on Columbia's bills and does not affect base rates.

1. Return of Income Tax Expense Differential

As a compromise, the Settlement provides that the Company's 2018 income tax expense differential of approximately $23.8 million associated with the TCJA will be returned to customers in full over an eighteen (18) month period beginning no later than December 16, 2018. There was no disagreement with the Company's calculation of the estimated differential, but the

actual amount to be returned will be based on actual experience. The actual amount to be returned will be based on the actual liability booked by the Company in revenues for service rendered from January 1, 2018 through December 16, 2018, the date prior to the effective date of rates in this case. This amount will be refunded via a negative surcharge applied on a percentage basis to customers with interest using the residential mortgage lending rate specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law (41 P.S. § 101 *et. seq.*). Interest will be computed monthly on the actual regulatory liability balance from January 2018 until the month the balance is returned. The tax liability for December 2018 will be estimated and trued up in the final reconciliation of the refund. (Settlement ¶ 27.)

The revenue requirement agreed upon above also reflects a reduction to rate base for the excess accumulated deferred income taxes amount as of the end of the FPFTY. The Company agreed to continue such treatment in future base rate filings until the entire amount has been refunded in future years. (Settlement ¶ 28.) The Settlement provisions addressing the federal tax reduction comply with the Commission's directive in the May 17 Order at Docket No. M-2018-2641242 and are in the public interest.

2. Tax Repair Allowance and Mixed Service Cost Normalization Treatment

As reflected in the Settlement, Columbia has completed the amortization of the full amount of the $37.4 million tax refund previously received by Columbia consistent with prior Commission-approved settlement agreements, which provided that the amortization would be without interest and without a deduction of the unamortized balance from rate base. This Settlement provision acknowledges that the full amount of the $37.4 million has been returned to Columbia's customers. As such, it is in the public interest and should be approved.

The Joint Petitioners have also agreed that Columbia will continue to use normalization accounting with respect to the tax treatment of Internal Revenue Code Section 263A mixed service costs (MSC). (Settlement ¶ 32.) This treatment was established in the

settlement of Columbia's 2012 rate case at Docket No. R-2012-2321748, and was unopposed in this proceeding. The Parties have agreed that such treatment will continue.

3. Pension Prepayment

By way of background, on September 15, 2017, the Company made a voluntary prepayment of an allocated share of pension contribution of $14,824,162 to the NiSource Inc. Pension Plan.[13] On January 5, 2018, the Company filed a petition with the Commission seeking permission to defer for accounting and financial reporting purposes the one-time prepayment of pension expense of $8,449,772.[14] On April 4, 2018, the Company filed a motion with the Commission to consolidate the petition requesting authorization to defer $8,449,772 of pension prepayment with this base rate proceeding which was granted on May 1, 2018.

The OCA and I&E filed Answers to the Accounting Deferral Petition opposing Columbia's request for deferred accounting treatment. Throughout this proceeding, the OCA and I&E maintained their respective positions that the Company's claim for pension deferral amortization be denied. OCA recommended a ten-year amortization period if the Accounting Deferral Petition were granted. (OCA Statement No. 1, p. 41.)

For settlement purposes, the Joint Petitioners agreed to grant the Accounting Deferral Petition. The Joint Petitioners agreed that the pension prepayment in the amount of $8,449,772 will be amortized over a ten-year period as recommended by the OCA, rather than the three-year period proposed by the Company, beginning December 16, 2018. Any unamortized balance shall not be permitted to be included in rate base in future rate base cases. (Settlement ¶ 33 (ii).)

The Settlement provides for the amortization of the pension prepayment over ten years which is consistent with the number of years the Company has prepaid per actuarial future

[13] Columbia Petition for Pension Deferral at Docket No. P-2018-2641257 at p. 4.

[14] Columbia Petition for Pension Deferral at Docket No. P-2018-2641257.

estimates.[15] The ten-year amortization of the pension prepayment is within the public interest because it allows the Company to recover that cost over the same amount of time that the prepayment savings or benefits are realized.

E. Revenue Allocation and Rate Design

1. Columbia's Position

a. Revenue Allocation

Columbia explained that the Settlement rates are not based upon any specific cost of service study results. Instead, the Settlement reflects a compromise of the Parties' revenue allocation and rate design proposals. The resulting class increases, as compared to the Company's as-filed increases, are as follows:

Customer Group	As Filed	Percentage of Proposed Increase[16]	As Settled	Percentage of Settled Increase
Residential (RS/RDS)	$37,712,156	79.22%	$18,799,197	72.3%
Small General Service (SGSS/SGDS/SCD)	$4,547,224	10.81%	$4,198,609	16.15%
Small Distribution Service (SDS/LGSS)	$2,505,422	5.34%	$2,002,266	7.7%
Large Distribution Service (LDS/LGSS)	$2,130,154	4.54%	$999,929	3.85%
Mainline Distribution Service (MLDS/NSS)	$42,270	0%	$0	0%
Total	$46,937,246	100%	$26,000,000	100%

Columbia notes that because of the disagreement over cost allocation studies and the "black box" nature of the Settlement, it is not possible to precisely calculate the extent to which the Settlement moves rates closer to cost of service for all Joint Petitioners. However,

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15 *Id.*

16 Columbia Exhibit No. 103, Schedule 8, p. 5.

Columbia believes that the Settlement achieves progress in the movement toward cost-based rates. (Columbia Statement in Support, p. 17.)

b. Rate Design

i. Residential Rate Design

Columbia explained that it proposed to increase the customer charges for residential customers from $16.75 to $18.25. (Columbia Statement No. 12, p. 22.) However, the requested increase was opposed by OCA, CAUSE-PA, and CAAP. (OCA Statement No. 3, pp. 36-37; CAUSE-PA Statement No. 1, pp. 12-20; CAAP Statement No. 1, pp. 2-3.) As part of the Settlement, the Joint Petitioners agreed that the residential customer charge will remain at the current rate of $16.75/month. (Settlement ¶ 39; Columbia Statement in Support, p. 17.)

ii. Commercial and Industrial Rate Design

Columbia explains that it proposed to increase the customer charges for small commercial and industrial customers. Specifically, Columbia proposed an increase to the customer charge for customers under Rate Schedules Small General Sales Service (SGSS), Small Commercial Distribution (SCD), and Small General Distribution Service (SGDS) using up to 6,440 therms annually by $1.50 to $22.75 per month. The Company proposed that the customer charge for customers under Rates Schedules SGSS, SCD, and SGDS using more than 6,440 therms annually remain at $48. (Columbia Statement No. 12, pp. 23-24.) The OSBA supported Columbia's proposed customer charges for customers on these Rate Schedules. (OSBA Statement No. 1, p. 27). No party opposed the proposed customer charges for customers on these Rate Schedules. The Settlement adopts the customer charges for these Rate Classes as proposed by the Company, consistent with the Company's and OSBA's positions in this case, and should be approved. (Columbia Statement in Support, p. 18.)

Columbia further explains that it initially proposed a 4.54% rate increase for the Large Distribution Service (LDS)/Large General Sales Service (LGSS) class. (Columbia Exhibit

No. 103, Schedule 8, p. 5.) Witnesses for CII and PSU testified that the LDS rate increase, as proposed, was burdensome, in part because the LDS rate class includes customers who are on flex rates, and therefore are not subject to the increase. (CII Statement No. 1, pp. 7-8; PSU Statement No. 1, pp. 28-29.) As a result of negotiations, the Parties agreed to reduce the total increase to the LDS/LGSS class from the Company's proposal of $2,130,154 to $999,929, which represents a slightly lower percentage (3.85%) of the total Settlement increase than originally proposed by Columbia. (Settlement Appendix A; Columbia Statement in Support, pp. 18-19.)

iii. Other Charges and Riders

Consistent with the Commission's June 23, 2011 Final Rulemaking Order at Docket No. L-2008-2069114, Columbia explained that it designed a gas procurement charge (GPC) in order to remove natural gas procurement costs from base rates and to recover those fuel acquisition costs as part of the "price to compare," on a revenue neutral basis via an automatic adjustment charge only to be recalculated in a base rate case. In the settlement of Columbia's 2015 base rate case at Docket No. R-2015-2468056, parties to the settlement agreed not to propose a change to the Company's GPC for a period of two base rate cases, or five years, whichever occurred first. (Columbia Statement No. 12, p. 22.) No party proposed a change to Columbia's GPC in this proceeding. The Settlement in this proceeding provides that the GPC will continue at the current rate of $0.00695/therm. (Settlement ¶ 42; Columbia Statement in Support, p. 19.)

Columbia explained that the Merchant Function Charge (MFC) is a component of the "price to compare". Columbia proposed an MFC of 1.40342% for residential customers and 0.29613% for non-residential customers, which represent a decrease from the currently-effective MFC rates. No party opposed the MFC as filed by Columbia. The Settlement provides that the MFC shall be 1.40342% for residential customers and 0.29613% for non-residential customers. (Settlement Appendix C.) The revised MFC rates shall be reflected in the Purchase of Receivables (POR) discount rates. (Settlement ¶ 43.) No party opposed Columbia's MFC as filed. (Columbia Statement in Support, pp. 19-20.)

In Columbia's 2012 base rate proceeding, the Commission approved the establishment of a pilot Weather Normalization Adjustment (WNA) program. Rider WNA adjusts a residential customer's monthly charges based on the actual temperature experienced during the month. By adjusting the temperature-sensitive portion of customers' bills to reflect normal weather levels, Columbia asserts, the WNA helps protect customers from weather related usage variations. Columbia's existing WNA includes a 5% deadband, which means that a billing adjustment occurs only if the variation of actual heating degree days is lower than 95% or higher than 105% of the normal heating degree days for an individual billing cycle. Columbia's currently-effective pilot WNA is set to continue until a final order is entered in the Company's first base rate case filed after May 31, 2016. The current proceeding is the Company's first base rate case filed after May 31, 2016. In the 2018 Base Rate Fling, the Company explained that it proposed to maintain Rider WNA with some modifications. (Columbia Statement No. 12, pp. 4-7; Columbia Statement in Support, pp. 20-21.)

Columbia proposed to make Rider WNA a permanent tariff provision with the following modifications: (1) discontinue weather adjustments in the month of October and (2) eliminate the 5% deadband. (Columbia Statement No. 12, p. 7.) While generally supportive of the Company maintaining a WNA, the OCA and I&E opposed eliminating the 5% deadband (OCA Statement No. 3, p. 41; I&E Statement No. 3, p. 8; Columbia Statement in Support, p. 20.)

In the Settlement, the Joint Petitioners agreed that the WNA will continue as a pilot and will include a 3% deadband. The Settlement accepts Columbia's proposal to exclude the month of October from the operation of the revised WNA. In addition, the Company has agreed to maintain and provide to the OCA, I&E and OSBA by October 1 of each year all reports and records supporting the operation of its WNA for the preceding year, including the Company's monthly computation of the WNA and all data underlying the Company's monthly WNA computation. (Settlement ¶ 40; Columbia Statement in Support, pp. 20-21.)

Columbia explained that its nearly five years of experience with Rider WNA is that the WNA has been successful in mitigating the impacts of colder and warmer than normal weather and providing bill stability for residential customers. (Columbia Statement No. 12,

pp. 6-7.) Continuing Rider WNA as a pilot, according to Columbia, will allow stakeholders an opportunity to reevaluate the WNA in the future based on the information provided by the Company. The modifications to Rider WNA that are adopted in the Settlement represent a compromise of the parties' positions in this proceeding. (Columbia Statement in Support, p. 21.)

The Company also proposed a Revenue Normalization Adjustment (RNA) in this proceeding. The RNA proposed by the Company would provide benchmark distribution revenue levels regardless of changes in customers' actual usage levels and would adjust actual non-gas distribution revenue for the non-CAP residential customer class. (Columbia Statement No. 12, p. 9.) The OCA, I&E, CAUSE-PA, and CAAP opposed the concept of implementing Rider RNA in this proceeding. (OCA Statement No. 3, pp. 41-43; CAAP Statement No. 1, p. 8; CAUSE-PA, Statement No. 1, pp. 21-23; I&E Statement No. 3, pp. 10-12.) The Company also agreed to withdraw the RNA proposal. (Settlement ¶ 41; Columbia Statement in Support, p. 21.)

2. OCA's Position

a. Revenue Allocation

Based on the OCA's review of the cost of service studies presented in this proceeding and the varying allocation proposals presented by other parties, OCA submits that the Settlement is within the range of reasonable outcomes that would result from the full litigation of this case. In addition, the Settlement is consistent with the objective of moving rate classes toward the system average rate of return. OCA submits that the Settlement is reasonable and, when considered along with the other important provisions contained in the proposed Settlement, yields a result that is in the public interest. (OCA Statement in Support, p.7.)

b. Rate Design

In his direct testimony, OCA witness Mierzwa noted that Columbia's monthly Residential customer charge is already the highest in Pennsylvania and recommended no

increase in the Company's customer charge. See OCA St. 3 at 39. OCA submits that keeping Columbia's customer charge at its current level is reasonable and in the public interest. The $16.75 customer charge is significantly lower than the Company's proposed customer charge and, OCA asserts, is within the likely range of outcomes in the event of full litigation of the case. (OCA Statement in Support, p. 7.)

c. Weather Normalization Adjustment and Revenue Normalization Adjustment

In his direct testimony, OCA witness Mierzwa noted that the OCA opposed the elimination of the 5% deadband on the WNA, but did not oppose discontinuing assessing the WNA in October. See OCA St. 3 at 40. OCA witness Mierzwa also noted that the OCA opposed Columbia's proposed RNA. OCA St. 3 at 41-44. Under the proposed Settlement, the WNA can only be assessed if the weather is more than 3 percent warmer or colder than normal. The Settlement is in the public interest as the 3% deadband helps to ensure that the assessment of the WNA is limited to changes in usage attributable to variations in temperature. See OCA St. 3 at 41. OCA submits that the withdrawal of the RNA is also in the public interest. (OCA Statement in Support, pp. 7-8.)

3. I&E's Position

I&E notes that a public utility shall not establish or maintain unreasonable differences in rates among rate classes.[17] While there may exist sound justification for some discrepancies in rates under the principle of gradualism, this principle alone does not justify "allowing one class of customers to subsidize the cost of service for another class of customers over an extended period of time."[18] I&E asserts the revenue allocation set forth in the Joint Petition reflects a compromise of the Joint Petitioners and produces an allocation that moves each class closer to its actual cost of service. This movement is consistent with the principles of *Lloyd*.

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[17] 66 Pa.C.S. § 1304.

[18] *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010, 1019-20 (Pa.Cmwlth. 2006).

Accordingly, I&E asserts this revenue allocation is in the public interest because it is designed to limit customer class subsidies, and to place costs upon the classes responsible for causing those costs. (I&E Statement in Support, p. 9.)

I&E notes that the residential customer charge will remain at $16.75 per month and the remaining customer charges in the Company's proposed tariff have been modified to reflect the mitigated level of the overall increase. Designing rates in this way allows customers to have greater control of their gas bills and is in the public interest because it affords customers the opportunity to decrease their usage in an effort to ultimately keep their utility bill lower. I&E asserts that limiting the increase in the customer charge demonstrates a compromise of the interests of the Joint Petitioners and benefits the Company's ratepayers. Therefore, this provision is in the public interest because it more closely aligns the customer charge with the cost to serve those customers. Furthermore, I&E explains that conservation is in the public interest and having a customer charge that is aligned with the cost to serve that customer allows the customer to realize the immediate benefit of conservation on their bill. Designing rates that allow customers to have greater control of their utility bills is in the public interest. (I&E Statement in Support, pp. 10-11.)

a. Weather Normalization Adjustment (WNA)

I&E explains that Columbia's Weather Normalization Adjustment pilot will continue as a pilot including a 3% deadband and exclude the month of October from operation. The Company will maintain and provide to I&E, OCA, and OSBA by October 1 of each year all reports and records supporting the operation of its WNA for the preceding year, including the Company's monthly computation of the WNA and all data underlying the Company's monthly WNA computation. (I&E Statement in Support, p. 11.)

I&E believes the continuation of the Company's WNA pilot with a 3% deadband is within the public interest because it serves to protect both the Company and customers from the effects of abnormal weather. The 3% deadband allows for a range of "normal" weather in which the Company's Commission-approved rates would be applied without adjustment. (I&E Statement in Support, p. 11)

b. Flex Rate Customers

In the Settlement, the Company agrees to segregate flex rate customers into a separate category in each of its filed cost allocation studies. By separating flex rate customers from the Small Distribution Service/Large General Sales Service and Large Distribution Service/Large General Sales Service classes I&E asserts that a determination can be made as to the actual cost to serve for the non-flex customers. (I&E Statement in Support, pp. 11-12.)

4. OSBA's Position

a. C&I Network

Pursuant to the settlement of the Company's last base rates case, and pursuant to the Commission's order at Docket R-2017-2581690, the Company proposed to install a C&I Network in order to assist competitive natural gas suppliers in meeting their load balancing obligations, and to recover the costs for that network in C&I Network charges to all larger SGS, LGS, SDS, and MDS customers. OSBA asserts that the Company expressed concern that the estimated cost of the C&I Network had materially increased since the Commission's decision at Docket No. R-2017-2581690. (OSBA Statement in Support, p. 5.)

In direct testimony, OSBA witness Robert D. Knecht testified that the Company's proposal to implement a fixed commercial and industrial network (C&I Network) to provide daily metering has not been economically justified and should be deferred until a full economic evaluation is completed.[19] Mr. Knecht also disagreed with the Company's proposal to impose the costs for this network on non-shopping and retail Choice customers, because (a) these customers have no need for the network, and (b) the settlement of the last base rates case explicitly limited the network to SDS, LDS and MDS transportation service customers.[20] (OSBA Statement in Support, pp. 5-6.)

[19] OSBA Statement No. 1 at 2, 7-12. In so doing, Mr. Knecht acknowledged that the matter may have already been resolved by the Commission. OSBA Statement No. 1 at 11, 3-5.

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

OSBA asserts that it is cautiously optimistic that this collaborative process identified in paragraphs 60 to 62 of the Joint Petition will result in a lower-cost alternative for meeting NGS information requirements than the C&I Network. Nevertheless, if such a proceeding is undertaking, OSBA expects to vigorously defend its position that only transportation customers should pay for such a network. (OSBA Statement in Support, p. 6.)

b. Cost Allocation and Revenue Allocation/Flex Rate Customers

OSBA asserts that revenue allocation and rate design should reflect allocated cost, but the specific rules for how costs should be allocated to the various rate classes for NGDCs like Columbia is less clear. OSBA explains that the two cost allocation issues substantially complicated the revenue allocation and rate design process. First, the issue of classifying mains costs remains a matter of significant debate, with significant disputes as to (a) whether mains should be sub-functionalized into small and large categories, (b) whether some portion of mains costs should be allocated on the basis of customer count, and (c) whether some mains cost should be allocated on the basis of annual volume. OSBA explains that choosing between the various methods produces enormous differences in allocated costs, and thus in the implications for revenue allocation. OSBA also asserts that a significant portion of the large industrial load in Rate LDS currently takes service at negotiated rates, wherein rates are set based on competitive conditions (often called "flex rates") rather than allocated cost. Because these rates are negotiated, no portion of the rate increase can be assigned to these customers. However, according to OSBA, because those customers are mixed in with "regular rate" LDS customers in the cost allocation study, it can be difficult to reasonably assign a cost-based rate increase to the regular rate LDS customers. (OSBA Statement in Support, p. 7.)

Regarding the latter issue, consistent with Mr. Knecht's recommendation in his direct testimony, OSBA explains that the Joint Petition paragraph 46 requires that the Company segregate flex rate customers in future cost allocation studies.[21] Also, with respect to flex rate customers, the OSBA strongly supports paragraph 45 of the Joint Petition, which requires that

[21] OSBA Statement No. 1, 21-24.

the Company justify the use of lower flex rates for customers where verification is ten years out of date. In OSBA's view, it is the Company's burden to demonstrate that all discounted flex rates are justified on the basis of competitive conditions. (OSBA Statement in Support, pp. 7-8.)

OSBA also observes that the revenue allocation is consistent with the longer term pattern of rate design settlements. In the Company's seven previous base rates proceedings, between 2008 and 2017, the Small General Service class share of the revenue allocation has ranged from 13 percent to 19 percent. The Joint Petition proposes a 16 percent share in the current proceeding, which OSBA asserts is consistent with the historical pattern. (OSBA Statement in Support, pp. 8-9.)

OSBA concludes that the revenue allocation in the Joint Petition provides a meaningful benefit to small business customers, since it eliminates the litigation risk associated with OCA's and I&E's proposed increase to Rate SGS customers. Therefore, the OSBA determined that the Joint Petition is in the best interest of Columbia's small business customers. (OSBA Statement in Support, p. 9.)

With respect to rate design, as set forth in Appendix B, OSBA did not object to the Company's modest proposed increase in the customer charge to Rate SGS1 because it was cost-based and reasonable, but recommended that it be proportionately scaled back if the Company's overall increase is scaled back.[22] The customer charge for Rate SGS1 in Appendix B is consistent with the OSBA's recommendation and therefore OSBA determined it is in the interest of Columbia's small business customers. (OSBA Statement in Support, p. 9.)

5. NGS Parties' Position

NGS did not specifically address this issue.

[22] OSBA Statement No. 1 at 36.

6. CAUSE-PA's Position

a. Revenue Allocation

CAUSE- PA did not take a position in this proceeding on revenue allocation.

b. Rate Design

i. Residential Customer Charge

CAUSE-PA asserts that under its existing tariff, Columbia's fixed charge is already $2.00 higher than the fixed charge of Pennsylvania's seven large natural gas distribution companies. (CAUSE-PA St. 1 at 19). CAUSE-PA's witness Mitchell Miller explained that increases to the fixed charge are particularly harmful low-income customers. Non-usage based rate increases undermine the ability of low-income customers to lower their consumption and engage in practices that promote energy conservation. (CAUSE-PA St. 1 at 20). Maintaining the customer charge at its current level, according to CAUSE-PA, will ensure that low-income customers can still mitigate the impact of the rate increase through energy conservation. (CAUSE-PA St. 1 at 21; CAUSE-PA Statement in Support, p. 6.)

c. Weather Normalization Adjustment Rider (WNA)

CAUSE-PA did not take a position in this proceeding on the Weather Normalization Adjustment Rider.

d. Revenue Normalization Adjustment Rider (RNA)

CAUSE-PA supports the company's withdrawal of the Revenue Normalization Adjustment Rider. (Joint Pet. at 11). Mr. Miller testified at length regarding the impact of non-usage based charges such as the fixed customer charge and the RNA on low income and vulnerable populations. (CAUSE St. 1 at 20-21, 22-23). CAUSE-PA asserts when revenue is

collected on a per customer basis, it undermines the ability of consumers to achieve lasting and appreciable bill savings through the adoption of energy efficiency and conservation, and creates a paradigm where low usage customers – which more often tend to be low income households – are subsidizing high usage clients. (CAUSE-PA St. 1 at 22-23). According to CAUSE-PA, the RNA, as proposed, would have disproportionately affected low-income consumers, as the percentage of the bill that is fixed is increased, the ability of a customer to reduce his bill through conservation decreases by the same margin. (Id.; CAUSE-PA Statement in Support, pp. 6-7.)

7. CAAP's Position

CAAP did not specifically address this issue.

8. Direct Energy's Position

Direct Energy did not specifically address this issue.

9. CII's Position

CII asserts that the Joint Petition is in the public interest for the following reasons:

a. As a result of the Joint Petition, expenses incurred by the Joint Petitioners and the Commission for completing this proceeding will be less than they would have been if the proceeding had been fully litigated.

b. Uncertainties regarding further expenses associated with possible appeals from the final order of the Commission are avoided as a result of the Joint Petition.

c. The Joint Petition results in an increase in Columbia's rates by $26 million, or approximately 4.52%, in lieu of the $46.9 million, or 8.16%, increase originally requested.

d. The Joint Petition provides a just and reasonable means by which to allocate the resulting increase.

e. The Joint Petition reflects compromises on all sides presented without prejudice to any position any Joint Petitioner may have advanced so far in this proceeding.

f. The Joint Petition is presented without prejudice to any position any party may advance in future proceedings involving the Company.

(CII Statement in Support, p. 3.)

F. Analysis

1. Revenue Allocation and Rate Design

Appendices A and B to the Settlement set forth the agreed to revenue allocation and rate design to the classes. (Settlement ¶ 47.) As described below, these items were the subject of extensive litigation and negotiation, and reflect a compromise of the positions of all the Parties to this proceeding. The Settlement strikes a balance that is in the best interest of all of Columbia's customers, and should be approved.

2. Revenue Allocation

Even to the extent certain Joint Petitioners agreed on the basic overall methodology, *i.e.* the Design Day demand allocation versus the Peak & Average methodology, these Joint Petitioners still disagreed on how to allocate certain other costs to the different rate classes, as well as how much movement toward cost of service was appropriate. Despite the fact that the Joint Petitioners were not able to agree on a specific class "cost of service" in the Settlement, they were able to agree to a revenue allocation that is within the range of revenue allocations proposed by the Joint Petitioners in this proceeding.

All Parties supported their respective cost of service studies for litigation purposes. However, the Parties were willing to compromise in order to achieve a settlement of the revenue allocation issues. Therefore, the revenue allocation set forth in the Settlement is not based upon a specific agreed to formulaic approach. In addition, the Settlement rates are not based upon any specific cost of service study results. Instead, the Settlement reflects a

compromise of the Parties' revenue allocation and rate design proposals. (Settlement Appendices "A" and "B".)

As noted above, the revenue allocation under the Settlement represents a compromise and falls within the litigation positions of the Joint Petitioners. In particular, I&E and OCA proposed substantial increases to the Small General Service class. (I&E Statement No. 3; p. 63; OCA Statement No. 3, p. 35.) Columbia notes that because of the disagreement over cost allocation studies and the "black box" nature of the Settlement, it is not possible to precisely calculate the extent to which the Settlement moves rates closer to cost of service for all Joint Petitioners.

As indicated in the Joint Petition, the agreed upon revenue allocation reflects a compromise and does not endorse any particular cost of service study. Settlement at ¶ 47. Under the terms of the Settlement, a typical Residential customer using 70 therms of gas per month will experience a 4.49% increase in their monthly bill, rather than a 9% increase as proposed by the Company in its original filing. Settlement at ¶ 23. Specifically, the total monthly bill of a typical Residential customer using 70 therms of gas per month would increase from $91.63 to $99.88 under the Company's proposal, whereas the monthly bill of a typical Residential customer using 70 therms of gas per month will increase from $91.63 to $95.74 under the Settlement. Settlement at ¶ 23.

With respect to revenue allocation, the various parties relied on a variety of different cost allocation methods, and thus produced a variety of revenue allocation recommendations. The table below, as prepared by OSBA[23] sets out the various positions of the parties, reported as a percentage of the overall increase. (That is, if a class is assigned $30 million of a system-wide $50 million increase, the reported value is 60 percent.) The table also includes the Joint Petition revenue allocation. As shown, the Joint Petition revenue allocation lies within the range of the positions of the parties.[24]

[23] OSBA Statement in Support p. 8.

[24] In addition, representatives of both CII and PSU submitted testimony favoring assignment of a lower share of the overall increase for Rate LDS, although they did not offer a complete revenue allocation proposal.

Comparison of Revenue Allocation Proposals							
	Total	**R**	**SGS1**	**SGS2**	**SDS/LGSS**	**LDS/LGSS**	**MDS**
Company Proposal	100.0%	80.3%	5.1%	4.6%	5.3%	4.5%	0.1%
OSBA Proposal	100.0%	78.7%	7.6%	0.0%	6.9%	6.8%	0.0%
OSBA 50/50 Alternative	100.0%	92.8%	5.3%	0.0%	1.6%	0.3%	0.0%
I&E Proposal (Sch 14)	100.0%	70.7%	11.5%	7.8%	5.3%	4.5%	0.1%
I&E Proposal (Sch 13)	100.0%	70.1%	11.7%	8.2%	5.3%	4.5%	0.1%
OCA Proposal Direct	100.0%	63.8%	10.1%	11.3%	9.2%	5.2%	0.3%
OCA Proposal Surreb.	100.0%	63.1%	10.1%	10.0%	9.2%	7.2%	0.3%
I&E Scaleback (Sch 15)	100.0%	70.6%	13.4%	6.0%	5.3%	4.5%	0.1%
Joint Petition	**100.0%**	**72.3%**	**10.4%**	**5.7%**	**7.7%**	**3.8%**	**0.0%**

3. Residential Rate Design

The proposed changes to the rate design for all customer classes, as set forth in Appendix "B" to the Settlement, reflect an accord reached between the Joint Petitioners as to the rate design to be used to recover the rate increases allocated under the Settlement to the Company's customers. The Joint Petitioners have agreed that the Settlement reflects an acceptable compromise of the competing litigation positions of the Joint Petitioners relative to rate design.

The Joint Petition provides that the residential customer charge will not be increased and will remain at $16.75 per month. The ultimate resolution of maintaining and not increasing the existing residential customer charge is in the public interest because it protects residential ratepayers while still providing Columbia with adequate revenue.

4. Weather Normalization Adjustment and Revenue Normalization Adjustment

In its base rate filing, Columbia proposed to eliminate the existing 5% deadband on its Weather Normalization Adjustment (WNA) and discontinue assessing the WNA in the month of October. The Company also proposed a Revenue Normalization Adjustment (RNA). The Settlement provides that the proposed WNA "will continue as a pilot and will include a 3% deadband" to take effect on January 31, 2019, and that the "proposal to exclude the month of October from the operation of the revised WNA is . . . accepted." Settlement at ¶ 40. In addition, after extensive negotiations between the Joint Petitioners, the Settlement notes that the Company's proposed RNA has been withdrawn. Settlement at ¶ 41.

5. C&I Network

Paragraph 44 of the Joint Petition provides that the "C&I Network will not be placed in service in 2019, and no charges will be imposed on customers in this proceeding related to the C&I Network," consistent with Mr. Knecht's recommendation. In addition, paragraphs 60 through 62 of the Joint Petition provide for a collaborative process through which issues related to timely provision of information to NGSs may be resolved. While paragraph 62 leaves open the possibility that Direct Energy may file a complaint related to this issue, the Joint Petition requires that any such proceeding be resolved based on evidence adduced in the current proceeding, supplemented by rejoinder testimony from the Company as necessary.

Revenue allocation and rate design, and the specific issues addressed by the Joint Petitioners were the subject of extensive litigation and negotiation, and the Settlement reflects a compromise of the positions of the active Parties to this proceeding. As such, the Settlement as proposed, while not the preferred manner to resolve these issues, does address the position and compromise of the Joint Petitioners and is in the best interest of Columbia's customers, under the circumstances.

G. Universal Service and Conservation

1. Columbia's Position

Columbia explains that in accordance with the terms of the Commission's Order at Docket No. P-2018-3000160, Columbia will place the residential portion of future federal pipeline credits and refunds toward the Hardship Fund, up to a maximum of $750,000. If the balance of credits and refunds exceeds $750,000, Columbia will flow the residential portion of future credits and refund proceeds in excess of the amounts needed to maintain the balance at $750,000 to residential customers through Columbia's Purchased Gas Cost (PGC) rates. In the first PGC filing in which future pipeline credits and refunds are utilized to replenish the Hardship Fund balance, the Company shall provide, in testimony, the exact annual cost impact on an individual customer basis for the average usage customer and a comparison of the residential price-to-compare with and without utilized pipeline credits and refunds. (Settlement ¶ 48; Columbia Statement in Support, p. 23.)

In addition, Columbia will provide a report in its next base rate proceeding on ideas developed and implemented to increase voluntary contributions to the Hardship Fund. (Settlement ¶ 48.) Further, the Settlement maintains that all parties have the right to challenge usage of these funds in future proceedings and all parties retain the right to support continued use of those funds to support the Hardship Fund. (Settlement ¶ 48.) This Settlement provision ensures that the appropriate level of funding for the Company's Hardship Fund is maintained while the Company continues its efforts to increase voluntary funding. In addition, it is consistent with previous Commission-approved requests by the Company to contribute the residential portion of pipeline penalty credits and supplier refunds to the Hardship Fund. As such, it is in the public interest and should be approved. (Columbia Statement in Support, p. 23.)

The Partial Settlement also provides that Columbia's proposal to decline to impose a limitation on the eligibility to receive a Hardship Fund grant to households with income between 151% and 200% of Poverty is approved. (Settlement ¶ 56.) No party opposed this

proposal from Columbia. The proposal ensures that low-income customers not eligible for Columbia's Customer Assistance Program (CAP) may receive Hardship Fund assistance. (Columbia Statement in Support, p. 24.)

Beginning with the 2020 Low Income Usage Reduction Program (LIURP) program year, the Company will increase its annual funding for LIURP by $125,000. Any unspent funds at the end of the year will be rolled over and added to the budget for the following year. LIURP funding will continue to be recovered under Columbia's Rider USP. The Joint Petitioners have agreed not to propose a change to Columbia's LIURP budget which would increase the budget amount prior to the end of LIURP program year 2021. (Settlement ¶ 49; Columbia Statement in Support, pp. 24-25.)

CAUSE-PA and OCA raised concerns regarding affordability of Columbia's CAP Program for certain customers. (OCA Statement No. 4, pp. 16-21; CAUSE-PA Statement No. 1, pp. 13-17.) Columbia explained that its CAP payment provisions are reasonable, and an appropriate balance between payment affordability and the cost of the CAP Program paid by other non-CAP customers. (Columbia Statement No. 14-R, pp. 12-13.) In response to these concerns, the Settlement includes provisions to further review the payment options under Columbia's CAP. Following release of the Commission's Energy Burden Study, Columbia has agreed that it will present information to its Universal Service Advisory Council (USAC) about how Columbia's then-current payment selection options address the issues raised by the Energy Burden Study. By no later than its next Universal Service and Energy Conservation Plan (USECP) filing following issuance of the Energy Burden Study or earlier date dictated by the Commission's Energy Burden Study (whichever is sooner), Columbia will make such filing as required by the Energy Burden Study to modify or change its CAP rate selection. Columbia will serve a copy of this filing on all parties to this proceeding. In the interim, Columbia agrees to conduct a bi-annual review of accounts enrolled on the average of payments and percent of bill CAP payment plan options that exceed the maximum energy burden recommended by the Commission in the CAP Policy Statement. The Company will change each account to a lower payment plan option, if available. (Settlement ¶ 57; Columbia Statement in Support, p. 25.)

To the extent terms of the Settlement warrant changes to the Company's USECP, within 90 days of receiving a final order in this proceeding, the Company will submit a Petition to the Commission to modify its USECP consistent with the provisions of this Settlement. (Settlement ¶ 58.) In addition, the Settlement provides that universal service issues raised by CAUSE-PA, CAAP and OCA, not addressed by this Settlement, shall be presented to Columbia's USAC for discussion and identification of potential solutions. (Settlement ¶ 59; Columbia Statement in Support, pp. 25-26.)

OCA witness Colton raised concerns regarding the Company's existing budget billing procedures. (OCA Statement No. 4, pp. 22-31.) In response to these concerns, the Settlement provides that the Company will allow year-round rolling enrollment for its budget billing program and shall modify any related tariff language accordingly in its compliance filing. (Settlement ¶ 52.) As part of the Settlement, Columbia has agreed to further review the budget billing proposals of Mr. Colton and provide an analysis in its next rate case of the costs and timing to adopt further modifications. (Settlement ¶ 52.) In addition, Columbia will promote the budget plan to each customer upon successful completion of a deferred payment plan. The nature of the promotion will be discussed and agreed to within the USAC. (Settlement ¶ 53.) Columbia has also agreed to engage in specific budget billing outreach to accounts, both low-income and residential generally, that experience short-term arrears during the Company's high cost months. The nature of the outreach will be discussed and agreed to within Columbia's USAC. (Settlement ¶ 54; Columbia Statement in Support, p. 26.)

In direct testimony, CAUSE-PA witness Mitchell Miller recommended that the Company add an electronic application option for CAP recertification. (CAUSE-PA Statement No. 1, pp-27-28.) In the Settlement, Columbia has committed that by January 1, 2020, the Company will design and implement a process, in co-ordination with its CAP administrator, to facilitate the electronic submission of income verification to enroll in CAP and/or to comply with recertification requirements. (Settlement ¶ 51; Columbia Statement in Support, pp. 26-27.)

Mr. Miller also recommended that Columbia's medical certification process be revised. (CAUSE-PA Statement No. 1, pp. 42-43.) In Settlement, the Company has agreed to

revise its procedures, or has already revised its procedures, with respect to medical certifications as follows:

a) The medical certificate language on termination notices has been revised to include the following language: "Make some equitable arrangement to pay the Company your current bills for service."

b) The Company's policy on medical certificates has been revised to no longer require a medical certificate in the form provided by the Company, and now accept any written document from a doctor, physician's assistant or nurse practitioner, as long as the required content for medical certification is provided.

c) The Company's call center scripts will be revised only to require that the customer make an equitable arrangement for payment of the current bill when a medical certificate is used, rather than to request household size and income information.

d) Requests to use a third or subsequent medical certificate renewal will be granted if the customer's current bill or budget bill amount is paid in full by the due date. Customers with medical certificates will be advised that if they continue to pay their current bill or budget bill, they can continue to renew their medical certificates.

(Settlement ¶ 50; Columbia Statement in Support, p. 27.)

Finally, pursuant to the Settlement, Columbia will to continue to review the list of customers with high CAP credits (over $1,000) from the prior year and prioritize those customers for weatherization when possible. Once this list has been exhausted, Columbia will use the high usage CAP customer list as well as eligible customers requesting weatherization. This prioritization will continue unless and until Columbia evaluates the cost-effectiveness of the prioritization; reviews that evaluation with stakeholders; and all parties agree that the prioritization is not cost-effective. (Settlement ¶ 55.) As part of the Settlement, Columbia will continue its efforts to coordinate low income and energy conservation programs. (Columbia Statement in Support, pp. 27-28.)

2. OCA's Position

a. Universal Service

OCA explains that the Settlement addresses a number of the concerns raised by the Joint Petitioners. OCA submits that the Settlement terms, along with other low-income and universal service terms included in the Settlement, are in the public interest in that they provide necessary steps toward remedying issues related to funding of the Company's Hardship Fund, budget billing enrollment, budget billing outreach, high CAP credits, and Hardship Fund grant eligibility, and ensure the availability of essential programs to low-income customers. (OCA Statement in Support, pp. 8-9.)

3. I&E's Position

a. Hardship Fund

I&E recognizes the harm that may occur to the Company's low-income population if funding for the Hardship Fund is not put in place. On a going forward basis, I&E explains that it will continue to analyze for increases on the impact on individual customers and the residential price-to-compare. Reserving the right to challenge the usage of these funds in future proceedings is in the public interest because it establishes a safeguard in the event that residential customers and price-to-compare will be significantly impacted by the use of these funds. (I&E Statement in Support, p. 13.)

4. OSBA's Position

OSBA did not specifically address this issue.

5. CAUSE-PA's Position

a. CAP Payment Plan Options

CAUSE-PA witness Miller testified that approximately 15% of Columbia's current CAP customers have an energy burden that exceeds the Commission's maximum energy burden for gas heating customers. (CAUSE-PA St. 1 at 17). The majority of customers with excessive energy burdens are also Columbia's poorest customers. (CAUSE-PA Statement in Support, p. 7.)

CAUSE-PA indicates that it supports Paragraph 57 of the Joint Petition requiring Columbia to conduct bi-annual review of accounts enrolled on its average of payments and percentage of bill CAP payment plan option that exceed the maximum energy burden recommended by the Commission. (CAUSE-PA St. 1 at 29). CAUSE-PA also supports Columbia's agreement to review its CAP payment plan selection policy after the release of the Commission's Energy Burden Study, and in the context of its next Universal Service Proceeding. (Joint Pet. at 15-16; CAUSE-PA Statement in Support, p.7.) In the interim, CAUSE-PA asserts the bi-annual review of Columbia's CAP customer payment plans will go a long way to address existing unaffordability within Columbia's CAP. (CAUSE-PA Statement in Support, p. 7.)

b. CAP Enrollment

In paragraph 51 of the Joint Petition, Columbia agreed to design and implement a process to facilitate the electronic submission of income verification for CAP enrollment and/or recertification, in collaboration with its CAP administrator. CAUSE- PA fully supports the proposed program change, as it will help to improve program access for many low income families. CAUSE-PA notes that mail or fax-based enrollment will remain an option for those who are less technologically advanced. (CAUSE-PA St.1 at 28; CAUSE-PA Statement in Support, pp. 9-10.)

c. Hardship Fund Program

In paragraph 48 of the Joint Petition, to ensure that the Hardship Fund is fully funded, Columbia proposes to use the residential portion of available pipeline credits and refunds to supplement the voluntary contributions to its hardship program, up to $750,000. (Joint Pet. at 13). CAUSE-PA fully supports Columbia's proposal to continue to supplement its Hardship Fund program with pipeline credits. (CAUSE-PA Statement in Support, pp. 8-9.)

d. Low Income Usage Reduction Program (LIURP)

The Low Income Usage Reduction Program (LIURP) is specifically designed to reduce energy usage for low-income households, and produces average bill savings of 21-24% for participating households. (CAUSE-PA St.1 at 35). Columbia estimates that there 18,647 households in need of weatherization assistance. (CAUSE-PA St.1 at 35). But in 2017, Columbia's LIURP program only served 440 households – a small fraction of the identified need. (CAUSE-PA Statement in Support, pp. 9-10.)

CAUSE-PA supports paragraph 49 of the Joint Petition to increase LIURP funding to help offset the impact of the rate increase, and Columbia's agreement to increase its annual LUIRP funding by $125,000, beginning with the 2020 program year. (CAUSE-PA Statement in Support, pp. 9-10.)

e. Medical Certificate

According to CAUSE-PA, Columbia's current medical certificate policy fails to inform customers of their rights and payment obligations with regard to medical certificate renewal requests, as outlined by the Commission in its Final Chapter 14 Implementation Order,[25] and does not allow medically vulnerable consumers to obtain a fourth medical certificate if the

[25] *Chapter 14 Implementation*, Docket No. M-2014-2448824, at 15 (Final Order entered July 9, 2015).

consumer kept up with current or budget bill charges while under the protection of a medical certificate. (CAUSE-PA St. 1 at 42; CAUSE-PA Statement in Support, p. 10.)

In an effort to comply fully with Commission's Final Chapter 14 Implementation Order., the Joint Petitioners agreed to several modifications to Columbia current medical certificate policies, as set forth in detail in the Settlement. (CAUSE-PA Statement in Support, pp. 10-11.)

6. Direct Energy's Position

Direct Energy did not specifically address this issue.

7. CAAP's Position

CAAP witness Moore provided testimony addressing the level of funding for the Company's low- income usage reduction program (LIURP). CAAP contended in its testimony that the proposed funding level for the Company's LIURP was insufficient to meet the need for LIURP services of the Company's low-income customers. CAAP also opposed the Company's Revenue Normalization Adjustment proposal and its proposal to increase the fixed monthly customer charge from $16.75 to $18.25 because of the adverse effect of those proposals on a low-income customer's ability to conserve energy and thereby reduce his or her monthly bill. (CAAP Statement in Support, pp. 1-2.)

CAAP notes that the Company has agreed to increase its annual funding for LIURP by $125,000, has withdrawn its Revenue Normalization Adjustment proposal and has agreed to keep the fixed monthly customer charge at $16.75. CAAP believes that the Settlement, as it relates to those issues, addresses its concerns and will provide a substantial benefit to low income customers by providing additional conservation measures to those customers that will result in lower energy use and utility costs for those vulnerable customers. Further, according to CAAP, those additional measures that promote conservation will benefit the public generally. (CAAP Statement in Support, p. 2.)

8. CII's Position

CII submits that the terms set forth in the Partial Settlement satisfy the concerns of CII and are in the public interest. (CII Statement in Support, pp. 3-4.)

H. Analysis

By way of background, on February 28, 2018, Columbia filed a Petition seeking approval to use future federal pipeline penalty credits and refunds (Petition) to support its residential Hardship Fund.[26] On June 14, 2018, the Commission approved the petition to allow the Company to use penalty credits and refunds to fund its Hardship Fund, while it continues to seek out additional voluntary funding sources.[27]

The Settlement provides that Columbia may use the residential portion of pipeline penalty credits and refunds as a funding source for the Hardship Fund, while it continues to seek out additional funding from voluntary sources, as consistent with the Order issued by the Commission.[28] In addition, Columbia agreed to provide a report in its next base rate proceeding on ideas developed and implemented to increase voluntary contributions to the Hardship Fund.

Columbia, in accordance with the Commission Order,[29] will keep the Hardship Fund balance at a maximum of $750,000. When the balance exceeds that number, Columbia will flow the residential portion of future credit and refund proceeds to residential customers through Columbia's Purchased Gas Cost (PGC). In the first PGC filing the Company uses pipeline penalty credits and refunds to replenish the Hardship Fund balance, the Company shall provide testimony on the exact annual cost impact on an individual customer basis for the average usage customer and a comparison of the residential price-to-compare with and without

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26 *Petition of Columbia Gas of Pennsylvania, Inc. For Approval to use Penalty Credit and Refund Proceeds for its Residential Hardship Fund*, Docket No. P-2018-3000160 (Order entered June 14, 2018).

27 *Id*.

28 *Id*.

29 *Id.*

utilized pipeline credits and refunds. Lastly, all parties have the right to challenge usage of these funds in future proceedings or support the continued use of those funds to support the Hardship Fund.

The Partial Settlement includes several provisions related to Columbia's Universal Service Programs.

The Partial Settlement addresses a number of the concerns raised by the Joint Petitioners. In particular, the Settlement provides:

> 48. Columbia's proposal to use the residential portion of pipeline credits and refunds as a funding source for the Hardship Fund, while it continues to seek out additional funding from voluntary sources, is approved . . .
>
> 52. The Company will allow year-round rolling enrollment for its budget billing program and shall modify its related tariff language accordingly in its compliance filing and Columbia agrees to further review the budget billing proposals of Mr. Colton and provide an analysis in its next rate case of the costs and timing to adopt further modifications.
>
> 53. Columbia will promote the budget plan to each customer upon successful completion of a deferred payment plan.
>
> 54. Columbia agrees to engage in specific budget billing outreach to accounts, both low-income and residential generally, that experience short-term arrears during the Company's high cost months.
>
> 55. Columbia agrees to continue to review the list of customers with high CAP credits (over $1,000) from the prior year and prioritize those customers for weatherization when possible. Once this list has been exhausted, Columbia will use the high usage CAP customer list as well as eligible customers requesting weatherization. This prioritization will continue unless and until Columbia evaluates the cost-effectiveness of the prioritization; reviews that evaluation with stakeholders; and all parties agree that the prioritization is not cost-effective.

> 56. Columbia's proposal to decline to impose a limitation on the eligibility to receive a Hardship Fund grant to households with income between 151% and 200% of Poverty is approved.

Settlement at ¶¶ 48, 52-56. The Settlement further provides that "universal service issues raised by CAUSE-PA, CAAP and OCA, not addressed by this Settlement, shall be presented to Columbia's USAC for discussion and identification of potential solutions." Settlement at ¶ 59.

Columbia currently funds its Hardship Fund by matching voluntary contributions with contributions from shareholder funds. Pursuant to the Commission-approved Settlement in Columbia's 2016 base rate proceeding, the Company funds the remaining portion of the Hardship Fund using the residential portion of pipeline credits and supplier refunds. As described in the direct testimony of Deborah Davis, Columbia has undertaken extensive efforts to increase voluntary funding for its Hardship Fund. In the 2018 Base Rate Filing, Columbia proposed to continue using the residential portion of pipeline credits and refunds, up to $750,000, as a funding source for the Hardship Fund while it continues its efforts to obtain additional voluntary funding sources. (Columbia Statement No. 14, pp. 2-24.) The OCA and CAUSE-PA supported the Company's proposal. (CAUSE-PA Statement No. 1, pp. 40-41; OCA Statement No. 4, pp. 36-37.) In addition, Columbia has previously received Commission approval for its request to contribute the residential portion of certain supplier refunds and pipeline penalty credits to the Hardship Fund. *See, e.g., Petition of Columbia Gas of Pennsylvania Inc. For Approval to Use Penalty Credit and Refund Proceeds for Its Residential Hardship Fund*, Docket No. P-2018-3000160 (Order entered June 14, 2018).

The Partial Settlement adopts Columbia's proposal with respect to funding for the Hardship Fund. Specifically, the Settlement provides that Columbia's proposal to use the residential portion of pipeline credits and refunds as a funding source for the Hardship Fund, while it continues to seek out additional funding from voluntary sources, is approved, consistent with the Order of the Commission entered June 14, 2018 at Docket No. P-2018-3000160. (Settlement ¶ 48.)

In direct testimony, the OCA, CAUSE-PA, and CAAP expressed concern with the effect of a rate increase on low-income customers and proposed a number of efforts Columbia could undertake to mitigate the effects of a rate increase upon low-income customers. (OCA Statement No. 4; CAUSE-PA Statement No. 1; CAAP Statement No. 1.) In the Settlement, Columbia has agreed to undertake several initiatives to address the OCA's, CAUSE-PA's and CAAP's concerns.

The commitments to Universal Service and Energy Conservation contained in the Settlement reflect the continued support for these programs by the Joint Petitioners and are in the public interest.

I. Natural Gas Supplier Issues

1. Columbia's Position

The Company asserts that its tariff provides significant flexibility for marketers to deliver supply onto its system. In addition, according to Columbia, General Delivery Service (GDS) customers are provided with generous banking and balancing tolerances. If left unchecked, particularly in periods of high demand resulting from cold weather, Columbia asserts imbalances between transportation customers' supplies and requirements could place the Company in a position of incurring penalty costs as the system operator or, in the alternative to avoid such penalties, higher commodity costs that would be borne by sales customers. (Columbia Statement No. 16-R, p. 5; Columbia Statement in Support, p. 28.)

Columbia asserts that because natural gas suppliers and GDS customers are not required to deliver an amount equal to their demand each day, it is sometimes necessary for Columbia to take certain actions to manage its system in response to operational conditions. One way Columbia controls deliveries to its system is through the issuance of Operational Flow Orders (OFOs) and Operational Matching Orders (OMOs). Columbia explains that OMOs and OFOs impose certain requirements and limitations on deliveries to Columbia's system and are necessary for Columbia to maintain a balanced system. (Columbia Statement No. 16-R, p. 4.)

Issues related to penalties for non-compliance with OMOs and OFOs were previously raised in Columbia's 2016 base rate proceeding. As a result of the Commission-approved Settlement in that proceeding, Columbia filed Tariff Supplement No. 255, which provided for the installation of equipment necessary for daily transmission of usage information for all customers eligible to be served on rate schedules SDS, LDS, and MLDS. Supplement No. 255 was approved by the Commission by Order entered March 16, 2017 at Docket No. R-2017-2586190. (Columbia Statement in Support, p. 29.)

At the time of the filing, Columbia estimated that the C&I Network would result in one-time costs of $4.3 million in capital and $1.3 million in O&M, as well as ongoing annual capital cost of $136,000 and $1.4 million in O&M costs. Columbia asserts that due to changes in the equipment provided by the vendor and IT programming changes, Columbia now estimates that the C&I Network would result in one-time costs of $6.0 million in capital and $0.7 million in O&M and ongoing annual costs of approximately $205,000 in capital and $1.2 million in O&M. (Columbia Statement No. 10, pp. 23-24; Columbia Statement in Support, pp. 29-30.)

In the 2018 Base Rate Filing, Columbia recommended that, due to the level of costs associated with the C&I Network and resulting rate impact on customers receiving the service, further investigation be conducted into alternative solutions to address the issues raised by transportation customers and their suppliers. (Columbia Statement No. 10, pp. 26-27.) The Direct Energy Companies opposed this proposal. (Direct Energy Statement No. 1, pp. 9-10.) Further, the Direct Energy Companies, the NGS Parties and PSU also challenged the levels of penalties imposed. (Columbia Statement in Support, p. 30.)

To resolve this dispute, the Partial Settlement provides that within sixty (60) days of the filing of the Settlement, Columbia shall convene a collaborative (Collaborative-I) with the parties to this proceeding and all interested GDS customers/Suppliers on its system to discuss operational and/or rule and tariff changes relative to operational orders, delivery quantities, and supplier access to customer usage information which would be in lieu of the current installation of the C&I Network. (Columbia Statement in Support, pp. 30-31.)

Columbia explains that the Partial Settlement also addresses what will happen in the event that Collaborative-I does not result in a tariff filing supported by a general consensus of the participants. If: (1) despite the good faith efforts of participants no tariff is filed within the timeline set forth above (or any extension to which all collaborative participants agree); or (2) a tariff is filed that is not supported by Direct Energy; or (3) the Commission does not approve the tariff filing, Direct Energy retains the right to file a complaint against Columbia with the sole issue being an allegation that Columbia has failed to comply with the C&I Network Installation provisions of the 2016 Rate Case Settlement and remedies for the alleged non-compliance. (Columbia Statement in Support, pp. 31-32.)

Upon completion of the above Collaborative-I, Columbia agrees to continue to hold quarterly Collaborative Meetings (Collaborative-II) for a minimum of two years, and thereafter as appropriate, to which all parties to this proceeding, all interested Suppliers and representatives of interstate pipelines shall be invited. (Columbia Statement in Support, p. 32.)

In the Partial Settlement, Columbia has also agreed to reduce the penalty multiple for violation of OMO/OFOs. (Columbia Statement in Support, pp. 32-33.)

2. OCA's Position

OCA did not specifically address this issue.

3. I&E's Position

I&E did not specifically address this issue.

4. OSBA's Position

OSBA did not specifically address this issue.

5. NGS Parties' Position

According to the NGS Parties, the collaborative provided for by the Settlement should provide an excellent platform to review and revise Columbia's processes as needed to address the increasing use of flow orders on its system, and the operational and financial ramifications of those orders, that simply are not the norm on other systems. (NGS Statement in Support, pp. 3-4.)

The NGS Parties further support the Settlement provision that will reduce the penalty multiplier for violations of OFO/OMOs. (NGS Statement in Support, pp. 3-4.)

Finally, NGS explains that, as a consequence of the Settlement the current volumetric fees for bank balance transfers and other gas transfers will be changed to a per transaction fee. The fixed fees will be $10/per transaction for bank balance transfers, and $15/per transaction for gas transfers through the EBB. Because the transactions are automated and require minimal levels of human intervention, the NGS Parties suggested that they would be better suited to flat fees as opposed to the volume-based fees because the costs of these transactions do not vary with the volumes and flat fees recognize this fact. (NGS Statement in Support, p. 4.)

6. Pennsylvania State University's Position

PSU did not specifically address this issue.

7. CAUSE-PA's Position

CAUSE-PA did not specifically address this issue.

8. CII's Position

CII did not specifically address this issue.

9. Direct Energy's Position

Direct Energy submitted testimony relating to the installation by the Company of equipment necessary to transmit daily usage data. Specifically, Direct Energy witness Mr. Orlando Magnani testified that the Settlement approved by the Commission in Columbia's last base rate case required Columbia to make a proposal in a non-general tariff filing to install equipment necessary to transmit daily customer usage data for all customers eligible to receive service on rates schedules Small Distribution Service, Large Distribution Service, and Main Line Distribution Service. (Direct Energy Statement in Support, p. 2.)

In this case, Columbia modified its estimate of the C&I Network and stated that the increased costs warranted further investigation into an alternative solution. *See* Direct Energy St. 1 at 4. In response, Mr. Magnani explained that daily usage data is necessary for suppliers to respond to Operational Matching Orders and Operational Flow Orders. Nevertheless, Mr. Magnani explained that this information has been unavailable to suppliers and has resulted in instances in which Direct Energy has been unable to comply with an OMO and has received a penalty bill for its non-compliance. *See* Direct Energy St. 1 at 4-6. Mr. Magnani recommended that Columbia be ordered to install the C&I Network, as it had agreed to do in the 2016 rate case settlement. *See* Direct Energy St. 1 at 9-10. Further, Mr. Magnani recommended that the Commission lower the penalties for non-compliance with OFOs/OMOs to 1.5 times the highest of the midpoint prices reflected in Platts Gas Daily for the day of the OMO or OFO non-compliance and refrain from charging penalties until implementation of the C&I Network is complete. (Direct Energy St. 1-R at 5-6; Direct Energy Statement in Support, p. 3.)

The Settlement contains several provisions addressing the issues raised by Direct Energy. Specifically, the Settlement provides that within sixty (60) days of the filing of a settlement in this proceeding, Columbia shall convene a collaborative to discuss issues related to operational orders, delivery quantities, and supplier access to customer usage information. Joint Petition at ¶ 60. (Direct Energy Statement in Support, pp. 3-4.)

In addition, Direct Energy notes that Columbia will continue to hold quarterly collaboratives for a minimum of two (2) years to discuss issues encountered on the Columbia system and will reduce the penalty for the violation of an OFO/OMO. (Direct Energy Statement in Support, pp. 3-4.).

Direct Energy submits that these settlement provisions are in the public interest and in the interest of natural gas suppliers. These provisions will provide Columbia and the parties with the opportunity to discuss operational issues and possible, cost-effective solutions. These issues will include the issues raised by Mr. Magnani in his testimony, including improving the accuracy and timeliness of customer usage data and the installation of the C&I Network. (Direct Energy Statement in Support, p. 4.)

10. CAAP's Position

CAAP did not specifically address this issue.

J. Analysis

The Settlement contains several terms intended to address concerns articulated by the NGS Parties, and the Direct Energy Companies.

One of the primary areas of concern for the NGS Parties, and the Direct Energy Companies concerned penalties and imbalance charges. (Direct Energy Statement No. 1, pp. 5-6.) The Settlement includes various changes to Columbia's tariff rules to reduce penalties and imbalance charges, while continuing to maintain provisions to encourage compliance with Columbia's delivery requirements.

Columbia explained that because natural gas suppliers and GDS customers are not required to deliver an amount equal to their demand each day, it is sometimes necessary for Columbia to take certain actions to manage its system in response to operational conditions. One way Columbia controls deliveries to its system is through the issuance of Operational Flow

Orders and Operational Matching Orders. OMOs and OFOs impose certain requirements and limitations on deliveries to Columbia's system and are necessary for Columbia to maintain a balanced system. (Columbia Statement No. 16-R, p. 4.)

In the 2018 Base Rate Filing, Columbia recommended that, due to the level of costs associated with the C&I Network and resulting rate impact on customers receiving the service, further investigation be conducted into alternative solutions to address the issues raised by transportation customers and their suppliers. (Columbia Statement No. 10, pp. 26-27.) The Direct Energy Companies opposed this proposal. (Direct Energy Statement No. 1, pp. 9-10.) Further, the Direct Energy Companies, the NGS Parties and PSU also challenged the levels of penalties imposed.

To resolve these issues, the Settlement provides that within sixty (60) days of the filing of the Settlement, Columbia shall convene a collaborative (Collaborative-I) with the parties to this proceeding and all interested GDS customers/Suppliers on its system to discuss operational and/or rule and tariff changes relative to operational orders, delivery quantities, and supplier access to customer usage information which would be in lieu of the current installation of the C&I Network.

In addition, the Collaborative-I will also consider ways in which to improve the accuracy and timeliness of customer usage data including installing telemetering or equivalent equipment. (Settlement ¶ 60.)

Within 150 days of convening Collaborative-I, Columbia will file tariff changes to implement the solutions which Columbia and a general consensus of the participants (but not necessarily all) agree to. The Partial Settlement provides that all parties retain their rights to support or oppose the tariff filing. (Partial Settlement ¶ 61.)

The Settlement also addresses what will happen in the event that Collaborative-I does not result in a tariff filing supported by a general consensus of the participants. If: (1) despite the good faith efforts of participants no tariff is filed within the timeline set forth above

(or any extension to which all collaborative participants agree); or (2) a tariff is filed that is not supported by Direct Energy; or (3) the Commission does not approve the tariff filing, Direct Energy retains the right to file a complaint against Columbia with the sole issue being an allegation that Columbia has failed to comply with the C&I Network Installation provisions of the 2016 Rate Case Settlement and remedies for the alleged non-compliance. The Parties agree that they shall treat such complaint as if it were filed in the context of Columbia's rate case, including:

> (a) Columbia shall retain the burden of proof to show that it has complied or should not be required to comply with the 2016 Settlement;
>
> (b) The testimony and exhibits developed in the above proceeding will be used to resolve the complaint, with the right for Columbia to submit rejoinder testimony on the issue and the rights of parties to cross-examination;
>
> (c) Neither Columbia nor any other Party shall raise any procedural objection to the complaint including, but not limited to an allegation that Direct Energy has waived its right to raise this issue, a claim that the issue should have been raised in some other form or proceeding or a claim that no remedy can be provided because no Columbia rate case is pending; provided, however, that Columbia may continue to contend that implementation should be conditioned upon a Commission Order authorizing the recovery of C&I Network Installation costs; and
>
> (d) All parties will request expedited treatment of the complaint.

(Settlement ¶ 62.)

Upon completion of the above Collaborative-I, Columbia agrees to continue to hold quarterly Collaborative Meetings (Collaborative-II) for a minimum of two years, and thereafter as appropriate, to which all parties to this proceeding, all interested Suppliers and representatives of interstate pipelines shall be invited. Columbia shall also notify participants about any changes it is planning to make in GTS or Choice transportation rules. At the end of each meeting, Columbia shall produce minutes of the meeting consisting of a short summary together with action items, which shall be shared with all participants. This will provide an opportunity for Suppliers to identify emerging concerns with system operations. (Settlement ¶ 63.)

In the Settlement, Columbia has also agreed to reduce the penalty multiple for violation of OMO/OFOs. This change may be further reviewed in the collaborative as a component of alternative proposals for managing OFO/OMOs. If Columbia experiences substantially higher non-compliance with OFO/OMO requirements following implementation of the lower multiplier, it reserves the right to seek to modify the penalty multiplier in a subsequent base rate case. (Settlement ¶ 64.)

The Collaborative is designed to provide Columbia and interested parties a forum to discuss the concerns raised in this proceeding related to penalties, as well as other issues transportation customers and suppliers may encounter on Columbia's system. Collaborative-I will also provide interested stakeholders an opportunity to discuss possible alternatives to the C&I Network that may be more cost-effective.

The Settlement contains several provisions addressing the issues raised by Direct Energy. Specifically, the Settlement provides that within sixty (60) days of the filing of a settlement in this proceeding, Columbia will hold a collaborative to discuss issues related to operational orders, delivery quantities, and supplier access to customer usage information. (Joint Petition at ¶ 60.) Specifically, such issues shall include: (1) a revised operational order process for customers with daily read meters, wherein customers with daily read meters shall have the right to elect to be subject to OFOs, rather than OMOs, on days that OMOs are issued; (2) a revised method for establishing a customer's Maximum Daily Quantity (MDQ); and (3) parameters for establishing the needed percentage of MDQ to satisfy OFOs. Additionally, the collaborative will consider ways to improve the accuracy and timeliness of customer usage data including installing telemetering and equivalent equipment. (Joint Petition at ¶ 60.) Columbia has also agreed to file tariff changes to implement solutions within 150 days of the collaborative. (Joint Petition at ¶ 61.) If Columbia fails to file a tariff within 150 days or files a tariff that is not supported by Direct Energy, Direct Energy retains its right to file a complaint against the Company alleging that Columbia has failed to comply with the C&I Network Installation provisions of the 2016 Rate Case Settlement. (Joint Petition at ¶ 62; Direct Energy Statement in Support, pp. 3-4.)

Columbia will continue to hold quarterly collaboratives for a minimum of two (2) years to discuss issues encountered on the Columbia system. Joint Petition at ¶ 63. Importantly, Columbia also agreed to reduce the penalty for the violation of an OFO/OMO. Joint Petition at ¶ 64. If Columbia experiences substantially higher non-compliance as a result of the lower penalty, it reserves the right to seek to modify the penalty multiplier in a subsequent base rate case. (Joint Petition at ¶ 62.)

K. Other Issues

1. Columbia's Position

a. Flex Rate Customers

Columbia's tariff allows it to negotiate flex rates for certain customers who can show that they have a competitive alternative to the Company's gas supply. I&E witness Cline proposed in direct testimony that Columbia in its next base rate case should provide a competitive alternative analysis for seven flex rate customers who had not had their competitive alternatives updated recently. (I&E Statement No. 3, pp. 4-6; Columbia Statement in Support, pp. 33-34.)

The Settlement provides that in its next base rate case, the Company will make available for review, subject to an appropriate confidentiality agreement, updated competitive alternative analyses for the six flex-rate customers that have not had their alternative supply verified since 2008 and one customer that has not had their alternative supply verified since 2010 as described in I&E Statement No. 3, and justify the flex rate granted to each customer. (Settlement ¶ 45; Columbia Statement in Support, p. 34.)

In direct testimony, PSU witness Crist recommended that the Company allocate revenue based on customers' status as flex and non-flex rate customers. (PSU Statement No. 1, p. 28.) OSBA witness Knecht also recommended that Columbia's allocated cost of service study should separately segregate flex rate customers. (OSBA Statement No. 1, p. 21.) In rebuttal,

Columbia explained that the Company already considers flex rate customers' individually negotiated contracts in its proposed rate design. (Columbia Statement No. 12-R, pp. 43-35; Columbia Statement in Support, p. 34.)

In Settlement, Columbia has agreed to segregate flex rate customers into a separate category in each of its cost allocation studies filed in its next base rate proceeding. The Company explains that it shall not be required, however, to allocate the revenue shortfall from the flex rate customer class to the regular rate classes as part of its cost allocation analysis. (Settlement ¶ 46; Columbia Statement in Support, pp. 34.)

2. OCA's Position

OCA did not specifically address any other issues.

3. I&E's Position

a. Flex Rate Customers

I&E notes that, the Company agrees to segregate flex rate customers into a separate category in each of its filed cost allocation studies. By separating flex rate customers from the Small Distribution Service/Large General Sales Service and Large Distribution Service/Large General Sales Service classes I&E asserts that a determination can be made as to the actual cost to serve for the non-flex customers. (I&E Statement in Support, pp. 11-12.)[30]

I&E asserts that the remaining issues raised in the I&E Prehearing Memo have been satisfactorily resolved through Discovery and discussions with Columbia and are incorporated into the "Black Box" resolution of the revenue requirement in this proceeding. (I&E Statement in Support, pp. 13-14.)

[30] I&E addressed this issue in the Revenue Allocation and Rate Design section of its Statement in Support of Settlement. The issue is being addressed here for the convenience of the reader.

4. OSBA's Position

OSBA asserts that a significant portion of the large industrial load in Rate LDS currently takes service at negotiated rates, wherein rates are set based on competitive conditions (often called "flex rates") rather than allocated cost. Because these rates are negotiated, no portion of the rate increase can be assigned to these customers. However, according to OSBA, because those customers are mixed in with "regular rate" LDS customers in the cost allocation study, it can be difficult to reasonably assign a cost-based rate increase to the regular rate LDS customers. (OSBA Statement in Support, p. 7.)

OSBA strongly supports paragraph 45 of the Joint Petition, which requires that the Company justify the use of lower flex rates for customers where verification is ten years out of date. In OSBA's view, it is the Company's burden to demonstrate that all discounted flex rates are justified on the basis of competitive conditions. (OSBA Statement in Support, pp. 7-8.)

5. NGS Parties' Position

NGS Parties did not specifically address any other issues.

6. Pennsylvania State University's Position

PSU explains that it supports the settlement provision requiring Columbia to segregate flex rate customers into a separate category in each of its filed cost allocation studies in the next base rate proceeding. (Pennsylvania State University Statement in Support, pp. 3-4.)

PSU explains that the Settlement addresses natural gas supplier and General Delivery Service customer issues as a compromise of competing positions. Columbia will convene a collaborative with the parties and interested General Delivery Service customer/Suppliers on its system to discuss, inter alia, operational and/or rule and tariff changes relative to operational orders and delivery quantities. (Pennsylvania State University Statement in Support, p. 4.)

7. CAUSE-PA's Position

CAUSE-PA did not specifically address any other issues.

8. Direct Energy's Position

Direct Energy did not specifically address any other issues.

9. CAAP's Position

CAAP did not specifically address any other issues.

10. CII's Position

CII did not specifically address any other issues.

L. Analysis

a. Flex Rate Customers

Columbia's tariff allows it to negotiate flex rates for certain customers who can show that they have a competitive alternative to the Company's gas supply. I&E proposed that Columbia in its next base rate case should provide a competitive alternative analysis for seven flex rate customers who had not had their competitive alternatives updated recently.

The Settlement provides that in its next base rate case, the Company will make available for review, subject to an appropriate confidentiality agreement, updated competitive alternative analyses for the six flex-rate customers that have not had their alternative supply verified since 2008 and one customer that has not had their alternative supply verified since 2010 as described in I&E Statement No. 3, and justify the flex rate granted to each customer. (Settlement ¶ 45.)

In the Settlement, Columbia has agreed to segregate flex rate customers into a separate category in each of its cost allocation studies filed in its next base rate proceeding. The Company shall not be required, however, to allocate the revenue shortfall from the flex rate customer class to the regular rate classes as part of its cost allocation analysis. (Settlement ¶ 46.)

M. Summary Regarding Partial Settlement

The Settling Parties agreed to a settlement of all but one issue in the above-captioned proceeding and the Partial Settlement was achieved only after an extensive investigation of Columbia's filing, including extensive informal and formal discovery and the service of written direct testimony (including accompanying exhibits) by the Joint Petitioners. A number of the Joint Petitioners served testimony and accompanying exhibits supporting their respective positions, which testimony and exhibits were subsequently admitted into the record at the evidentiary hearing held on July 26, 2018.

The Settling Parties assert the Partial Settlement is just and reasonable and Columbia's filings, as modified by the Partial Settlement, should be approved.

N. Public Input Hearing

On June 21, 2018, a public input hearing was held at 6:00 p.m. at the Courthouse Square Building in Washington, Washington County, Pennsylvania.

One witness, Richard Culbertson, testified at the public input hearing. Mr. Culbertson testified that he is a customer of Columbia "from time to time". Mr. Culbertson testified that the proposed rate increase and future rate increases should be denied until the Company can prove, through internal and external independent audits, that the Company and its parent company have adequate internal business systems and internal controls to provide reasonable assurance that all costs passed on to customers with the rate base and other costs are reasonable and prudent. Mr. Culbertson testified that his primary concern is that there are costs that should not be considered in the rate base. He also testified that he did not believe the

Company is being operated effectively and efficiently. Finally, he expressed concerns that people have limited incomes and cannot afford rate increases for their utility service.

O. Disposition of Non-Settling Parties' Interests

1. Formal Complaint of Patricia Southorn

Patricia Southorn filed a formal complaint at Docket No. C-2018-3000582 on March 28, 2018, opposing Columbia's proposed rate filing. Ms. Southorn averred that rates for distribution are higher than the national average and objects to paying "pass-through charges". Ms. Southorn also objected to the manner in which Columbia replaces old lines in the streets, poor management and to the Company's "deceitful billing procedures." As relief, Ms. Southorn requests that the Commission reject the proposed rate increase and present legislation so that the Commonwealth awards grant money to Companies who upgrade their systems on an on-going basis. Ms. Southorn did not join in the Partial Settlement. Ms. Southorn was provided a copy of the Settlement Petition on August 31, 2018 and a written notice from the undersigned presiding officer on September 4, 2018, which apprised her of her opportunity to file objections to the Settlement Petition on or before September 12, 2018. By providing Ms. Southorn an opportunity to be heard, her due process rights have been fully protected. *Schneider v. Pa. Pub. Util. Comm'n*, 83 Pa.Cmwlth. 306, 479 A. 2d 10 (1984). Ms. Southorn did not file any objection to the Settlement Petition.

2. Formal Complaint of G. Blair Bauer

G. Blair Bauer filed a formal complaint at Docket No. C-2018-3001319 on April 19, 2018, opposing Columbia's proposed rate filing because the actual price of gas has gone down significantly. As relief, Mr. Bauer requests that the Commission reject the proposed rate increase. Mr. Bauer did not join in the Partial Settlement. Mr. Bauer was provided a copy of the Settlement Petition on August 31, 2018 and a written notice from the undersigned presiding officer on September 4, 2018, which apprised him of his opportunity to file objections to the Settlement Petition on or before September 12, 2018. By providing Mr. Bauer an

opportunity to be heard, his due process rights have been fully protected. *Schneider v. Pa. Pub. Util. Comm'n*, 83 Pa.Cmwlth. 306, 479 A. 2d 10 (1984). Mr. Bauer did not file any objection to the Settlement Petition.

3. Formal Complaint of Philip L. Bloch

Philip L. Bloch filed a formal complaint at Docket No. C-2018-3001634 on May 1, 2018, opposing Columbia's proposed rate filing. Mr. Bloch complains that Columbia has been granted at least 4 rate increases in the last 5 years for the pipeline replacement project. He asserts this has placed an enormous burden on individuals on fixed incomes. Mr. Bloch also complains of the waste and inefficiency of the pipeline replacement project and claims that the Company is squandering money from past rate increases and should not be granted any more rate increases. As relief, Mr. Bloch requests that the Commission reject the proposed rate increase and rescind the previous rate increases. In addition, he requests the imposition of a moratorium on any future rate increase requests from the Company until an independent auditor has certified that the Company is using the fund in an efficient and cost-effective manner. Mr. Bloch did not join in the Partial Settlement. Mr. Bloch was provided a copy of the Settlement Petition on August 31, 2018 and a written notice from the undersigned presiding officer on September 4, 2018, which apprised him of his opportunity to file objections to the Settlement Petition on or before September 12, 2018. By providing Mr. Bauer an opportunity to be heard, his due process rights have been fully protected. *Schneider v. Pa. Pub. Util. Comm'n*, 83 Pa.Cmwlth. 306, 479 A. 2d 10 (1984). Mr. Bauer did not file any objection to the Settlement Petition.

4. Formal Complaint of Robin A. Harrison

Robin A. Harrison filed a formal complaint at Docket No. C-2018-3002595 on June 7, 2018, opposing Columbia's proposed rate filing. Ms. Harrison averred that customers have been told repeatedly that if they support "energy company friendly legislation" rates would come down, yet the Company is now seeking a rate increase. She avers that the Company should look for ways to reduce costs. As relief, Ms. Harrison requests that other ways to reduce gas distribution costs be identified without passing additional costs onto the customers.

Ms. Harrison did not join in the Partial Settlement. Ms. Harrison was provided a copy of the Settlement Petition on August 31, 2018 and a written notice from the undersigned presiding officer on September 4, 2018, which apprised her of her opportunity to file objections to the Settlement Petition on or before September 12, 2018. By providing Ms. Harrison an opportunity to be heard, her due process rights have been fully protected. *Schneider v. Pa. Pub. Util. Comm'n*, 83 Pa.Cmwlth. 306, 479 A. 2d 10 (1984). Ms. Harrison did not file any objection to the Settlement Petition.

P. The Public Interest

The Partial Settlement was achieved by the Joint Petitioners after an extensive investigation of Columbia's filings, including extensive informal and formal discovery and the service of written testimony and exhibits by the Joint Petitioners. Acceptance of the Partial Settlement avoids the necessity and costs of further administrative and potential appellate proceedings.

The Partial Settlement provides for the resolution of various issues in this proceeding that are just and reasonable given the positions advanced in the testimony and exhibits of the various parties.

Attached as Appendices D through M are Statements in Support submitted by Columbia, I&E, OCA, OSBA, CII, NGS Parties, PSU, CAUSE-PA, Direct Energy and CAAP setting forth the basis upon which they believe the Partial Settlement is in the public interest.

Commission policy promotes settlements. 52 Pa.Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa.Code § 69.401. The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a "burden of proof" standard, as is utilized for contested

matters. *Pa. Pub. Util. Comm'n v. City of Lancaster – Bureau of Water*, Docket No. R-2010-2179103 (Opinion and Order entered July 14, 2011) (*Lancaster*). Instead, the benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest. *Id*.; *citing*, *Warner v. GTE North, Inc*., Docket No. C-00902815 (Opinion and Order entered April 1, 1996) (*Warner*); *Pa. Pub. Util. Comm'n v. CS Water and Sewer Associates*, 74 Pa. PUC 767 (1991).

This Recommended Decision has examined whether the Partial Settlement is in the public interest, satisfies applicable statutes and regulations for base rate filings and is supported by substantial evidence. For the reasons similar to those stated by the Settling Parties in their respective Statements in Support of the Settlement, I agree that the Partial Settlement is in the public interest and recommend that it should be approved in its entirety without modification.

Finally, as with most settlements, this Partial Settlement is also in the public interest because it will conserve the resources of the Commission and the parties. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. Although a substantial amount of pre-served testimony has already been submitted in this proceeding, such efforts were necessary to properly examine the filings of Columbia. Nonetheless, the resolution of the issues contained in the Partial Settlement will avoid further litigation on those issues, thereby, serving judicial efficiency and allowing the parties and the Commission to conserve their resources, the costs of which will ultimately be borne by customers.

While none of the settlement provisions individually is substantial, the standard to judge the Partial Settlement is only that the Partial Settlement be in the public interest. As a whole, the Partial Settlement is in the public interest. The continuation and/or further refinement of certain issues is reasonable and in the public interest. In addition, the issues raised by the parties in this proceeding were extensively discussed in pre-served testimony that was admitted into the record of this proceeding. The Partial Settlement is, therefore, also supported by substantial evidence.

VII. CONCLUSION REGARDING PARTIAL SETTLEMENT

For the reasons set forth in the Joint Petition, as well as the additional factors enumerated in the Statements in Support of Partial Settlement filed by the Settling Parties, the proposed Partial Settlement is in the public interest and supported by substantial evidence. The Partial Settlement addresses all of the statutory requirements and is therefore recommended for approval in its entirety, without modification.

In this proceeding, Columbia has requested that the Commission approve its proposed base rate increase, with an anticipated effective date of December 16, 2018, which is the effective date of rates under the Commission's April 5, 2018 Suspension Order. As set forth in the Joint Petition for Partial Settlement, the parties have achieved settlement on all issues in this case, with one exception. The issue reserved for resolution by the Commission is whether Columbia will be permitted to continue to include on its bills a separate line item charge for non-commodity services elected by customers and offered by unaffiliated entities who are not Natural Gas Suppliers, without being required to allow NGSs access to Columbia's bills to charge customers for other non-commodity products and services that may be offered by NGSs.

The Joint Petitioners have agreed to a base rate increase, an allocation of that increase to the rate classes and the rate design for all rate classes to recover the allocated portions of the rate increase to such classes. Other issues raised by the Company's filing and by intervening parties also have been resolved.

VIII. CONTESTED ISSUE

In accordance with the Commission's Rules of Practice and Procedures, 52 Pa.Code § 5.231, the parties engaged in settlement discussions. As a result of those discussions, the Joint Petitioners were able to reach a settlement in principle of all issues, except whether Columbia should be permitted to continue to include on its bills, charges for non-commodity services offered by non-NGS affiliates without being required to bill for non-commodity products and services offered by NGSs.

A. Question Presented

The sole issue reserved for litigation in this case is whether Columbia should be permitted to continue its current practice of including on its bills charges for non-commodity services offered by two former non-NGS affiliates, without being required to bill for non-commodity products and services offered by NGSs.

B. Legal Standards and Burden of Proof

Under the Public Utility Code, rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301 and 1304.

A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. 66 Pa.C.S. § 315(a); *Pa. Pub. Util. Comm'n v. Aqua Pennsylvania, Inc.*, Docket No. R-00038805, 236 PUR 4th 218, 2004 Pa. PUC LEXIS 39 (Order entered August 5, 2004). However, a public utility, in proving that its proposed rates are just and reasonable, does not have the burden to defend affirmatively claims made in its filing that no other party has questioned. As the Commonwealth Court has explained:

> While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.

Allegheny Center Assocs. v. Pa. Pub. Util. Comm'n, 570 A.2d 149, 153 (Pa.Cmwlth. 1990).

Although the ultimate burden of proof does not shift from the utility seeking a rate increase, a party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *See, e.g., Pa. Pub. Util. Comm'n v. PECO*, Docket No. R-891364, 1990 Pa. PUC LEXIS 155 (May 16, 1990); *Pa. Pub. Util. Comm'n v. Breezewood Telephone Company*, Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (January 31, 1991). In addition, tariff provisions

previously approved by the Commission are deemed just and reasonable and, therefore, a party challenging a previously-approved tariff provision bears the burden to demonstrate that the Commission's prior approval is no longer justified. *See, e.g., Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket Nos. R-00061931, 2007 Pa. PUC LEXIS 45 at *165-68 (September 28, 2007) (adopting the ALJ's discussion on burden of proof).

Further, a party that raises an issue that is not included in a public utility's general rate case filing bears the burden of proof. For example, in *Pa. Pub. Util. Comm'n v. Metropolitan Edison Company,* Docket No. R-00061366, 2007 Pa. PUC LEXIS 5 (January 11, 2007), a party offered proposals to have the companies incur expenses not included in their filings. The ALJ held that, as the proponent of a Commission order with respect to its proposals, the party bears the burden of proof as to proposals that are not included in the companies' filings. The Commission agreed and adopted the ALJ's conclusion that Section 315(a) of the Public Utility Code cannot reasonably be read to place the burden of proof on the utility with respect to an issue the utility did not include in its general rate case filing and which, frequently, the utility would oppose. *Id*. at 111-12. The issue reserved for litigation was not presented in Columbia's filing and, therefore, the burden of proof on this issue should be borne by parties proposing changes to billing for non-commodity products and services.

C. Position of the Parties

1. Columbia's Position

The Commission's regulations do not mandate that Columbia's bill be opened to any entity.

Columbia argues the NGS Parties' request that Columbia be required to offer an on bill billing option for NGSs' non-commodity products and services, as the Company does for the two non-NGS entities is not mandated by the Commission. (NGS Parties' St. No. 2, p. 7.) Columbia asserts that nothing in the Public Utility Code or the Commission's regulations require Columbia to bill for non-utility products and services, as requested by the NGS Parties. (Columbia M.B. p. 9.)

Columbia asserts the Commission's regulations envision that a distribution company's bill *may* include charges for non-commodity products and services offered by third parties, as evidenced by the Commission's regulation on "charges for other than basic service," but including these charges on the utility bill is not *required*. See 52 Pa.Code § 56.13. Columbia asserts it has the right to negotiate with third parties of its choosing regarding non-utility products, subject to the Commission's regulations for billing and prohibition on termination for nonpayment of non-basic charges, as set forth in 52 Pa.Code §§ 56.13 and 56.83. (Columbia M.B. p. 9.)

Columbia is required to bill for natural gas supply service provided by NGSs in accordance with 66 Pa.C.S. § 2205(c). However, Columbia argues it is not required to bill for any other non-regulated, non-commodity products and services that NGSs offer. (Columbia M.B. p. 9.)

Columbia's decision to limit the entities permitted to include charges on Columbia's bill is not discriminatory.

The NGS Parties allege that providing an on bill billing option for two unaffiliated, non-NGS entities, while not allowing the same billing option for NGSs, is discriminatory. (NGS Parties' St. No. 2, p. 3)

66 Pa.C.S. § 1502 prohibits discrimination in any act performed by a utility involving the provision of utility service. Columbia argues this provision does not apply to acts by the utility that are not related to utility service. *See PPL Electric Utilities Corp. v. Pa. Pub. Util. Comm'n,* 912 A.2d 386 (Pa.Cmwlth. 2006). Thus, Columbia asserts, Section 1502 does not prohibit Columbia from limiting the entities that the Company permits to include non-commodity charges on its bills.

Columbia asserts, the Commonwealth Court's decision in *PPL Electric Utilities Corp.* rejected an overly broad definition of service as proposed by the NGS Parties. (Columbia R.B. p. 3.) Like the tax auditing services in *PPL Electric Utilities Corp. v. Pa. Pub. Util. Comm'n, supra.,* Columbia argues, the non-commodity services at issue here do not constitute

regulated public utility service. Columbia argues the non-commodity products and services that the NGS Parties seek to include on Columbia's bills do not constitute the provision of natural gas service to customers. (NGS Parties St. No. 2, p. 4.) The NGS Parties are not customers or ratepayers. Therefore, Columbia asserts, the prohibition on discrimination in Section 1502 does not apply to Columbia's decision not to include charges on its bill for the non-commodity products and services offered by the NGS Parties because these non-commodity products do not constitute utility service. (Columbia M.B. pp. 11-13.)

Columbia argues the NGS Parties' contention that Columbia actions violate 66 Pa.C.S. § 2203(4) of the Public Utility Code is similarly without merit. (NGS Parties St. No. 2, p. 5.) Columbia argues its decision to limit on bill billing for non-commodity products to the two non-affiliated entities also does not violate the *Natural Gas Choice and Competition Act's* non-discrimination provisions. Section 2203(4) provides:

> (4) Consistent with the provisions of section 2204, the Commission shall require that a natural gas distribution company that owns or operates jurisdictional distribution facilities shall provide distribution service to all retail gas customers in its service territory and to all natural gas suppliers, affiliated or nonaffiliated, on nondiscriminatory rates, terms of access and other conditions.

Section 2203(4) prohibits a natural gas distribution company from discriminating among NGSs with respect to natural gas distribution service.[31] Columbia notes it does not prohibit different treatment as between an NGS and another non-affiliated entity with respect to non-utility products and services. Columbia asserts the two entities that are authorized to include charges for non-commodity services on Columbia's bill are not "NGSs" and do not offer "natural gas supply service" as those terms are defined in the Public Utility Code, 66 Pa.C.S. § 2202.[32]

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[31] Natural gas distribution service is defined as, "the delivery of natural gas to retail gas customers utilizing the jurisdictional facilities of the natural gas distribution company." 66 Pa.C.S. § 2202.

[32] "Natural gas supplier" is defined as "an entity other than a natural gas distribution company, but including natural gas distribution company marketing affiliates, which provides natural gas supply services to retail gas customers utilizing the jurisdictional facilities of a natural gas distribution company. . ." "Natural gas supply services" is defined as, "the sale or arrangement of the sale of natural gas to retail gas customers; and services that may be unbundled by the commission under section 2203(3) (relating to standards for restructuring of natural gas utility industry)." "The term does not include distribution service."

Thus, Columbia asserts its decision to limit on bill billing for the non-commodity services offered by the two non-affiliated entities does not favor one NGS over another, does not favor an affiliate over an NGS, and is not discriminatory pursuant to the *Natural Gas Choice and Competition Act*. (Columbia M.B. p. 12-13.)

Columbia further asserts, even if a discrimination standard were applied, discrimination must be unreasonable to constitute a violation of Section 1502. The Commission has held that some level of discrimination is allowable so long as it is not undue. "There may be discrimination between classes of customers, provided that it is not unreasonable and that it rests on sound basis of fact." *Pa. Pub. Util. Comm'n v. Nat'l Fuel Gas Distribution Corp.*, 2000 Pa. PUC LEXIS 883, *13 (June 29, 2000) citing *United Natural Gas Co. v. Pa. Pub. Util. Comm'n*, 22 A.2d 752, 757 (Pa. Super. 1943). (Columbia M.B. p. 13.)

Here, Columbia argues, there are differences between the entities involved and the non-commodity products and services being offered that justify different treatment. The two non-NGS entities offer clearly defined non-commodity services, i.e. service plans for customer-owned natural gas facilities, pursuant to legacy contracts. (Columbia St. No. 18-R, p. 3.) Conversely, Columbia asserts the NGS Parties seek to market products and services, such as products bundled with loyalty rewards and products bundled with home protection that are unrelated to natural gas service and could be detrimental to customers. (NGS Parties St. No. 2, p. 4.) Limiting the entities that receive an on bill billing option to the two unaffiliated, non-NGS entities, according to Columbia, does not rise to the level of unreasonable discrimination. (Columbia M.B. p. 14.)

Columbia argues its decision not to offer NGSs an on bill billing option for their non-commodity products and services as it does for the two non-affiliated, non-NGS entities does not violate the Public Utility Code's nondiscrimination provisions.

Columbia should not be required to provide on bill billing for non-commodity products and services offered by NGSs.

a. Columbia's decision to continue two legacy contracts to bill for non-commodity services should not result in Columbia being required to open its bill to other third parties.

Columbia argues its decision to provide on bill billing for the two unaffiliated entities is the result of a unique transaction involving two prior Columbia affiliates. CSP and Nicor each purchased retail service businesses that a Columbia affiliate provided to Columbia customers. Following the sale of these businesses, Columbia asserts it decided to continue billing for the non-commodity services provided by these entities. Columbia explains, the agreements with CSP and Nicor are negotiated in arm's length transactions. (Columbia St. No. 18-R, pp. 3-4.) Conversely, Columbia argues the NGS Parties seek to *mandate* that Columbia open its bill for the non-commodity products and services that the NGSs market. (Columbia M.B. p. 14.)

b. The NGS Parties' proposal would force Columbia to associate itself with products and services unrelated to natural gas service and potentially contrary to Columbia's interests.

Columbia further argues that the NGS Parties' proposal would result in Columbia being required to associate itself with products and services that are contrary to its interests in violation of Columbia's First Amendment rights. (Columbia M.B. p. 15.)

If Columbia were to include charges for the NGS Parties' non-commodity products and services on its bills, Columbia asserts it could be viewed as endorsing these items. Several of the products and services offered by the NGS Parties are in no way related to natural gas service, e.g. products bundled with loyalty rewards and products bundled with home protection. Certain of these services, such as distributed solar energy, Columbia argues, are in direct competition with services provided by Columbia. (Columbia St. No. 18-R, p. 6.) There are no criteria offered with respect to the non-commodity products or services that NGSs could demand to be included on Columbia's bill, which, according to Columbia, increases concerns about implicit endorsement of products. (Columbia M.B. pp. 15-16.)

c. The NGS Parties' proposal presents a concern of improper linkage of commodity and non-commodity products.

Even if the charges for non-commodity products appear separately from the commodity charge on the bill, Columbia argues NGSs could still market these products in connection with the commodity service. As a result, the gas supply product and non-commodity service could be viewed as a package deal from the customer's perspective, leading customers to elect this option even when it is not in their best interest. The Commission has previously expressed its concern with linking non-commodity products with the sale of gas supply. *See, e.g., Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period June 1, 2017 Through May 31, 2021*, Docket No. P-2016-2526627, at pp. 35, 53 (Order entered October 27, 2016) (limitations on low-income customer shopping were warranted for several reasons, including NGSs marketing "other benefits," such as gift cards and energy audits, along with supply service to customers as an incentive to elect their natural gas supply service). (Columbia M.B. pp. 16-17.)

Columbia asserts this concern does not apply to Columbia's existing billing contracts with the two non-NGS entities because, unlike the NGSs, Columbia does not sell or market the non-commodity services being offered. Rather, the non-commodity products are marketed directly by the third party entities that offer the products, without any involvement from Columbia. (Columbia St. No. 18-SR, p. 7) Therefore, Columbia argues, there is no potential of the non-commodity product being linked with gas supply or distribution service. (Columbia M.B. p. 17.)

d. The NGS Parties' proposal is detrimental to customers.

Columbia argues, the types of charges the NGS Parties are proposing to add to the bills, such as home protection services and loyalty rewards programs, are not charges that customers would reasonably expect to appear on their gas bills. (Columbia St. No. 18-R, p. 7.) Columbia asserts, the NGS Parties have the ability to market and bill their products and services directly to customers without unnecessarily complicating customers' natural gas utility bills. (Columbia M.B. pp. 17-18.)

Columbia's current practice of on bill billing for non-commodity services offered by CSP and Nicor is lawful and should be permitted to continue.

OCA questioned whether Columbia has authority to bill for these charges since the practice is not reflected in Columbia's tariff or approved by a Commission order. (OCA St. No. 5-R, p. 4.) Columbia argues that neither the Public Utility Code nor the Commission's regulations prohibit Columbia from offering on bill billing for the non-commodity services provided by two unaffiliated, non-NGS entities, nor is Columbia required to seek approval of a tariff provision before offering on bill billing to these entities. Columbia asserts Commission approval of this arrangement is not required because neither CSP and Nicor nor the non-commodity services they offer are regulated by the Commission. In fact, according to Columbia, the Commission's regulations anticipate that these types of charges will appear on utility bills. *See* 52 Pa.Code § 56.13, which provides:

> Charges for other than basic service—that is, merchandise, appliances and special services, including merchandise and appliance installation, sales, rental and repair costs; meter testing fees; line extension costs; special construction charges and other nonrecurring charges, except as provided in this chapter—must appear after charges for basic services and appear distinctly separate. This includes charges for optional recurring services which are distinctly separate and clearly not required for the physical delivery of service. Examples include line repair programs and appliance warranty programs. See § 56.83(3) (relating to unauthorized termination of service).

Pursuant to this regulation, Columbia asserts charges for the non-commodity services provided by CSP and Nicor properly appear as a distinct line item on the customer's bill. (Columbia St. No. 18-SR, p. 4; Columbia M.B. pp. 19-20.)

Columbia argues it bills and collects the charges for non-commodity services provided by CSP and Nicor in accordance with the Public Utility Code, 66 Pa.C.S. § 1501 *et seq*., and the Commission's regulations at 52 Pa.Code § 1.1 *et seq*. The OCA expressed concern regarding the presentation of non-commodity charges on Columbia's bill. (OCA St. No. 5-R, pp. 5-6.) Both the OCA and CAUSE-PA expressed concern regarding how billing for the

non-commodity charges could affect termination of service for non-payment. (OCA St. No. 5-R, pp. 7-8; CAUSE-PA St. No. 1-R, pp. 7-8.) Columbia argues the Commission has set forth certain billing standards to address these issues, and Columbia's on bill billing practices for the non-commodity charges comply with those standards. (Columbia M.B. pp. 20-21.)

According to Columbia, it will not disconnect a customer for non-payment of non-commodity charges. Columbia explains when customers inquire with Columbia regarding the non-commodity charges on their bill, Columbia discloses to the customer that CSP and Nicor are vendors that sell warranty service plans and are not affiliated with Columbia in any way. This disclosure is also provided on customers' billing statements each month. (Columbia St. No. 18-SR, p. 4; Confidential Columbia Ex. No. NP-4-SR.) Columbia further informs the customer that non-payment of the charges for these optional services will not result in any delinquent fees or late charges by Columbia and will never result in termination of natural gas service to the customer's home. (*Id*.)

OCA also questioned how the non-commodity services are marketed to Columbia's customers. (OCA St. No. 5-R, p. 7.) Columbia explains it offers on bill billing pursuant to its agreement with CSP and Nicor, but the Company asserts it does not market to customers the non-commodity services offered by these vendors. All marketing is performed directly by CSP and Nicor. (Columbia St. No. 18-SR, p. 7.) In addition, Columbia asserts all outreach materials provided by CSP and Nicor include disclosures stating that these entities are independent from Columbia and that the services being provided by them are not regulated by the Commission. (Columbia St. No. 18-SR, p. 3; Columbia M.B. pp. 21-22.)

Finally, CAUSE-PA raised a concern regarding privacy of customer information with respect to third-party access to customer data. (CAUSE-PA St. No. 1-R, p. 8.) Columbia explains it adheres to the Commission's regulations concerning privacy of customer information. (Columbia M.B. pp. 21-22.)

In accordance with Section 62.78, Columbia explains it provides customers with the opportunity to opt out of having their information shared with third parties. Twice a year,

Columbia sends a bill insert to customers notifying them of their ability to opt out of having their information shared with third parties. The notice explains how customers can notify Columbia of their desire to limit or restrict the information that is provided to third parties. (Columbia St. No. 18-SR, p. 8.) As further protection, Columbia does not provide account number information to the third party entities. Only customers can give their account numbers to CSP and Nicor. (Columbia St. No. 18-SR, p. 7.) Without proper account number identification, Columbia explains, the customer will not be charged for non-commodity services from CSP or Nicor on the Columbia bill. (Columbia M.B. pp. 22-23.)

2. OCA's Position

OCA witness Barbara R. Alexander raised a variety of concerns, both about Columbia's current practice as well as the NGS Parties' proposal to allow NGSs to include non-commodity products on Columbia's utility bill. (*See* OCA St. No. 5-R.) Witness Alexander agreed that the NGS Parties have raised a legitimate concern about Columbia's current practice, in which Columbia is "able to bill for unregulated and non-commodity services and products on its regulated bill for essential distribution and commodity services." (OCA St. No. 5-R at 4.) This arrangement "reflects prior affiliated relationships and this practice is not reflected in Columbia's tariff or any explicit Commission order." *Id.* (citations omitted). Witness Alexander notes that neither the prices for these services nor their terms and conditions are regulated, although their inclusion on Columbia's bill may give rise to "a reasonable assumption by customers that such services are regulated or supervised by the Commission." *Id.* at 4-5. As such, Witness Alexander raised significant concerns about Columbia's current non-commodity billing practices. (OCA M.B. pp. 7-8.)

Witness Alexander, however, disagreed with the NGS Parties' proposal to address this issue by allowing NGSs to also include non-commodity products and services on Columbia's utility bill. *Id.* at 5. Witness Alexander acknowledged that many entities offer these types of services, only some of which are NGSs, and that it "would be an unfair practice to require Columbia to bill for non-commodity services offered by NGSs and/or their previously affiliated companies, but deny such an option to other unregulated sellers of these same

services," as the NGS Parties propose. *Id.* at 6. OCA further argues it also may be unclear to customers that, although non-commodity charges are included in the total amount due on their bill, payment for non-commodity services is not necessary to avoid termination of essential utility service. *Id.* at 6-7. Additionally, OCA asserts it is unclear from the record in this case exactly how the services are marketed and sold to Columbia's customers, and it may not be clear to customers that these charges are not regulated by the Commission or that payment is not linked to retention of utility service. (*Id.* at 7; OCA M.B. pp. 8-9.)

While OCA witness Alexander raised concerns about Columbia's current non-commodity billing practices, she explained that the NGS Parties' proposal to allow NGSs to include non-commodity charges "raises additional and potentially complex consumer protection issues…" *Id.* at 8. Ms. Alexander summarized those concerns as follows:

> For example, NGSs may seek to bundle their non-commodity or what he calls "value added" services to the natural gas supply service, thus eliminating the customer's ability to compare the NGS's natural gas supply price with the Price to Compare stated on the natural gas utility bill on an "apples to apples" basis. Another concern is whether NGS marketing practices in offering these non-commodity services will properly inform customers about the different collection policies governing non-commodity products and services compared to natural gas supply service that is purchased by the NGDC and for which the customer is liable for termination of service. Mr. Cusati's recommendation only exacerbates the concern I have raised about Columbia's current practice of including non-commodity services on their regulated distribution services bill and including such charges on the total amount owed. Finally, the overall purpose of the Natural Gas Competition Act is to allow customers to select an alternative supplier for natural gas supply service, a product that is explicitly required to be unbundled from the NGDC's previously bundled natural gas service.

(*Id.* at 8-9; OCA M.B. pp. 8-9.)

While OCA witness Alexander raised concerns about Columbia's current non-commodity billing practices, she ultimately recommends that no changes be made at this time as part of this rate case. Ms. Alexander rejected the NGS Parties' recommendations and instead recommended that the Commission "should not allow NGSs to include non-commodity and

unregulated services on the regulated Columbia bill without a complete and more thorough investigation of the costs and potential adverse impact on other competitive suppliers . . . as well as the potential for confusion and adverse consequences on residential consumers." (*Id.* at 9; OCA M.B. p. 9.)

3. NGS Parties' Position

The NGS Parties argue there is a distinct legal deficiency in the manner in which Columbia currently provides distribution service where Columbia currently bills on behalf of entities providing non-commodity products and services. The NGS Parties assert these services include: "various service plans for the repair and maintenance of customer-owned facilities (e.g., piping)," and "service plans for the repair and maintenance of customer-owned heating and cooling systems, water heaters, appliances, pipes and wires." Exhibit NMP-1R. The NGS Parties argue while it may be true that the services in question are not jurisdictional to the Commission, the bill issued by the utility for distribution and commodity services clearly is. In fact, the NGS Parties assert the Public Utility Code specifically authorizes NGDCs to design, implement and render billing services on behalf of NGSs and other entities. 66 Pa.C.S. § 2205(c)(3). The NGS Parties argue that providing the service of billing services, which include the billing and collection of charges for non-commodity products and services, falls under the broad definition of service found at 66 Pa.C.S. § 102, and therefore retains the anti-discrimination protections of 66 Pa.C.S. §§ 1502, 1304 and 2203(4).

Columbia's Current Billing Services are Discriminatory

The NGS Parties explain they are not seeking to halt Columbia's current practice of including charges for non-commodity products and services on its customer bills, but rather are merely seeking equal access to such a service, which does not exist under Columbia's current billing practices. (NGS Parties' St. No. 2, 7:15-20; NGS M.B. p. 4.)

The NGS Parties argue the billing of non-commodity products and services constitutes a public utility "service" as that term is defined by the Public Utility Code. (66 Pa.C.S. § 102; NGS M.B. pp. 4-5.)

The NGS Parties argue the legislature further expressed its intent to consider billing associated with natural gas distribution companies (NGDC) to be an aspect of the "service" offered by public utilities as NGDCs are permitted to design, implement, and render billing services on behalf of NGSs or other entities. 66 Pa.C.S. § 2205(c)(3). The NGS Parties argue the Commonwealth Court has also found that billing falls under the definition of service in Section 102, and therefore falls within the jurisdiction of Commission regulation. *Aronson v. Pa. Pub. Util. Comm'n*, 740 A.2d 1208 (Pa.Cmwlth. 1999). As such, the NGS Parties assert, customer billing is subject to the same anti-discriminatory and anti-competitive standards required in other "services" rendered by the public utility pursuant to 66 Pa.C.S. §§ 1502 and 2203. (NGS M.B. p. 5.)

Here, the NGS Parties argue Columbia has violated both § 1502 and § 2203 by allowing, on an exclusive basis, its former affiliates to utilize its billing services. Section 1502 states,

> No public utility shall, as to service, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage.

(66 Pa.C.S. § 1502; NGS M.B. p. 5.)

The NGS Parties argue the Company is in violation of the precise behavior prohibited by § 1502 -- by allowing Nicor and CSP to utilize its billing services to the exclusion of the NGS Parties. Columbia St. No. 18-R, 3:2—8. The advantage provided to the Company's former affiliates, according to the NGS Parties, is unreasonable and provides the affiliates with an advantage over the NGS Parties. (NGS Parties' St. No. 2, 6:19—21; NGS M.B. pp. 5-6.)

The NGS Parties assert that, in the same way Columbia has violated 66 Pa.C.S. § 1502, so too has it violated 66 Pa.C.S. § 2203 by failing to provide the NGS Parties with equal access to its billing services. Specifically, § 2203(4) states,

> Consistent with the provision of section 2204, the commission shall require that a natural gas distribution company that owns or operates jurisdictional distribution facilities shall provide distribution service to all retail gas customers in its service territory and to all natural gas suppliers, affiliated or nonaffiliated, on nondiscriminatory rates, terms of access and other conditions.

66 Pa.C.S. § 2203(4). Here, the NGS Parties argue, by excluding access to everyone but its former affiliates to its billing services, Columbia has engaged in discriminatory terms of access to its jurisdictional facilities which include billing services. (NGS M.B. p. 6.)

Further, the NGS Parties argue that the agreements to allow for the billing of non-commodity services may have been executed when Nicor and CSP were still affiliates of Columbia; i.e., before they were sold. Company witness Paloney, testified that the subject billing services were provided while the companies were affiliated, but she never testified that those agreements were subjected to any Commission approval process; either under an affiliate interest agreement filing, or as part of an order approving the sale of the assets. Columbia St. No. 18-R, 4:7-15.

4. Direct Energy's Position

Direct Energy asserts that, as an NGDC, Columbia is prohibited from engaging in discriminatory practices and from providing preferential treatment to affiliated entities over non-affiliated NGSs. *See* 66 Pa.C.S. § 2203(4); *see also* 66 Pa.C.S. § 1502; *see also* 52 Pa.Code § 62.142. In his Direct Testimony, NGS Parties' witness Cusati testified that Columbia's current practice of allowing non-commodity products on Columbia's utility bill is discriminatory. NGS Parties St. No. 2 at 2-3. Witness Cusati further explained that Columbia's utility bill is a distribution asset, paid for by the distribution rate-payers. By allowing CSP and Nicor to benefit

from a distribution monopoly asset, Direct Energy argues the Company discriminates against other players in the market who offer similar services. (*Id.*; Direct Energy M.B. p. 4.)

Direct Energy notes that other parties also presented testimony raising concerns about Columbia's current practice of allowing its non-NGS affiliates to bill for non-commodity services. Direct Energy witness Magnani testified, "Direct Energy also offers similar products and services, but does not have the ability to bill its customers for those products and services on the utility bill. (Direct Energy St. No. 1 at 6; Direct Energy M.B. pp. 4-5.)

As such, Direct Energy submits that the record contains substantial evidence to support a finding that Columbia's current practice of allowing its former affiliates to bill for non-commodity services is discriminatory, in violation of the Public Utility Code and the Commission's regulations. As a resolution to this problem, witness Cusati recommended that the Commission require Columbia to end the discriminatory practice by allowing all NGSs to bill for non-commodity products on Columbia's utility bill. (NGS Parties St. No. 2 at 7; Direct Energy M.B. p. 5.)

Direct Energy asserts that requiring Columbia to permit all NGSs to bill for non-commodity products and services on the Company's utility bill is in the public interest. This proposal, according to Direct Energy, will promote the competitive market and provide benefits to consumers in the form of innovative and value-added products. (Direct Energy M.B. p. 6.)

D. Analysis

Pursuant to the terms of separate agreements, Columbia currently allows Columbia Service Partners, Inc. and Nicor Energy Services Company to include non-commodity charges as a separate line item charge on Columbia's customer bills. (See Columbia St. No. 18-R at 3-5.) CSP and Nicor are both former Columbia affiliates and neither are natural gas suppliers. *Id.* at 3-4. These non-commodity charges are for items such as warranty services covering HVAC systems and gas, water, and/or sewer line protection services. (NGS Parties St. No. 2 at 2.) Columbia does not currently allow any other entities to include non-commodity

charges on its customer bills. (Columbia St. No. 18-R at 4-5.) This practice is referred to as "on bill" billing. Revenues received by Columbia under the contracts with CSP and Nicor are credited as miscellaneous revenues and reflected in computing revenue requirements. (Columbia St. No. 18-R, p. 3; Columbia M.B. pp. 7-8.)

Columbia explains that both CSP and Nicor are former Columbia affiliates. (Columbia St. No. 18-R, p. 3.) Prior to its sale to a non-affiliated entity in 2003, CSP provided various service plans for the repair and maintenance of customer-owned facilities, e.g., piping, to Columbia customers for seven years. NiSource Retail Services, a Columbia affiliate, sold its retail services business assets to Nicor in 2013. Prior to the sale, NiSource Retail Services provided various service plans for the repair and maintenance of customer-owned heating and cooling systems, water heaters, appliances, pipes and wires to Columbia customers for nine years. Prior to the sale of CSP and the NiSource Retail Services assets, Columbia provided on bill billing services to these affiliates. (*Id*.)

Columbia asserts that it permits CSP and Nicor to have their charges for non-commodity services appear on Columbia's monthly billing statements because they each purchased various retail service businesses that a Columbia affiliate previously provided to Columbia customers. For the convenience of Columbia's customers who wish to continue purchasing non-commodity products and services from CSP and Nicor, the current billing arrangements were entered into with CSP and Nicor to maintain the ability to have these charges included on the monthly gas bill. Columbia does not provide on bill billing for any entity other than CSP and Nicor. (Columbia St. No. 18-R, pp. 4-5; Columbia M.B. pp. 8-9.)

The NGS Parties request that Columbia be required to offer an on bill billing option for NGSs' non-commodity products and services, as the Company does for the two non-NGS entities. (NGS St. No. 2, p. 7.) Columbia asserts that nothing in the Public Utility Code or the Commission's regulations requires Columbia to bill for non-utility products and services, as requested by the NGS Parties. (Columbia M.B. p. 9.)

Although Columbia asserts the Commission's regulations envision that a distribution company's bill *may* include charges for non-commodity products and services offered by third parties, as evidenced by the Commission's regulation on "charges for other than basic service," including these charges on the utility bill is not *required*. See 52 Pa. Code § 56.13. Columbia asserts it has the right to negotiate with third parties of its choosing regarding non-utility products, subject to the Commission's regulations for billing and prohibition on termination for nonpayment of non-basic charges, as set forth in 52 Pa.Code §§ 56.13 and 56.83. (Columbia M.B. p. 9.)

Columbia is required to bill for natural gas supply service provided by NGSs in accordance with 66 Pa.C.S. § 2205(c). However, Columbia argues it is not required to bill for any other non-regulated, non-commodity products and services that NGSs offer. (Columbia M.B. p. 9.)

The NGS Parties contend that billing for the non-commodity products provided by two unaffiliated, non-NGS entities constitutes "service" as defined by 66 Pa. C.S. § 102 and is subject to the Commission's prohibition on discrimination in 66 Pa. C.S. §§ 1502 and 2203.[33] (NGS Parties' M.B., p. 5) Columbia asserts that simply billing for the unregulated non-commodity products and services provided by two nonjurisdictional entities does not amount to "service." Therefore, Columbia asserts the Commission's prohibition on discrimination does not apply to the billing of non-commodity products offered by two unaffiliated, non-NGS entities. (Columbia R.B. pp. 2-3.)

Section 1502 prohibits discrimination <u>as to service</u>. (emphasis added) "Service" is defined as follows:

> Used in its broadest and most inclusive sense, includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities, or contract carriers by motor vehicle, in the performance of their duties under

[33] Columbia's Main Brief addresses why its conduct is not discriminatory pursuant to 66 Pa.C.S. § 2203(4).

> this part to their patrons, employees, other public utilities, and the public, as well as the interchange of facilities between two or more of them. . . .

66 Pa.C.S. § 102.

The NGS Parties contend that Columbia's existing billing practice for the non-commodity products is "service" because billing is a regulated function. Columbia argues that the Commonwealth Court has previously rejected such an overly broad definition of service. *See PPL Electric Utilities Corp. v. Pa. Pub. Util. Comm'n*, 912 A.2d 386 (Pa.Cmwlth. 2006). In this case, the Commonwealth Court determined that Section 1502 did not apply to a utility's conduct in referring its customers to a non-regulated affiliate for tax auditing services because tax auditing was not a public utility service. In this case, the utility's actions also involved a function regulated by the Commission—the disclosure of customer information to third parties. Even so, the utility's conduct did not constitute "service" for purposes of the Commission's prohibition on discrimination because it was not related to the "public service the utility provides to its customers and the public." (*Id.* at 408; Columbia R.B. pp. 3-4.)

Columbia argues that simply because a regulated function, i.e. billing, is involved, does not mean that utility service is being provided. The non-commodity products and services at issue here are not regulated and are not being provided by Columbia to the public. Therefore, Columbia argues, they do not constitute service pursuant to 66 Pa.C.S. § 102 and do not fall under the Commission's prohibition on discrimination. (Columbia R.B. p. 3.)

The NGS Parties also cite 66 Pa.C.S. § 2205(c)(3) in support of their argument that billing for the non-commodity products and services offered by the two unaffiliated, non-NGS entities constitutes public utility service. (NGS Parties M.B., p. 5) However, as Columbia points out, a careful reading of Section 2205(c) indicates that Section 2205(c)(3) relates to billing for natural gas distribution service and supply services provided by NGSs. Section 2205(c) states as follows:

(c) Customer billing.--

(1) Subject to the right of a retail gas customer to choose to receive separate bills from its natural gas supplier for natural gas supply service, the natural gas distribution company shall be responsible for billing each of its retail gas customers for natural gas distribution service, consistent with the orders or regulations of the commission, regardless of the identity of the provider of natural gas supply services.

(2) (i) Bills to retail gas customers shall contain sufficient unbundled charge information to enable the customer to determine the basis for those charges and shall comply with section 1509 (relating to billing procedures). At a minimum, such charges shall include those services which are unbundled as a result of a restructuring filing or rulemaking.

(ii) Bills to retail residential customers rendered by a natural gas distribution company for natural gas distribution services shall include information required by commission regulations governing standards and billing practices for residential utility service.

(iii) Bills rendered by a natural gas distribution company on behalf of a natural gas supplier shall include, in a form and manner determined by the natural gas distribution company in consultation with the natural gas supplier, the following information with respect to natural gas supplier services: the name of the natural gas supplier; the rates, charges or prices of natural gas supply services billed, including adjustments to prior period billings, if applicable, and taxes, if applicable; and the natural gas supplier's toll-free telephone number and hours of operation for customer inquiries.

(3) Incremental costs relating to billing services designed, implemented and rendered by the natural gas distribution company, at its election, on behalf of a natural gas supplier or other entity may be recovered through fees charged by the natural gas distribution company to the natural gas supplier or other entity. Either party may request that the commission consider the appropriate level of the fee. In doing so, the commission shall consider fees charged by other natural gas distribution companies for similar services. The commission shall either permit the fee to continue as set or shall establish an alternative mechanism to permit full recovery of unrecovered just and reasonable costs from the supplier or the supplier's customers. Nothing in this section shall permit the recovery of such costs from natural gas supply service customers of the natural gas distribution company.

****

Section 2205(c)(3) does not involve billing for non-commodity services offered by unaffiliated third parties. In addition the NGS Parties provide no authority to support the argument that billing for non-commodity products of unaffiliated entities is a regulated utility service, and therefore subject to Section 2205(c)(3). (Columbia R.B. pp. 4-5.)

As explained in *PPL Electric Utilities Corp. v. Pa. Pub. Util. Comm'n*, 912 A.2d 386 (Pa.Cmwlth. 2006), the Commonwealth Court determined that Section 1502 did not apply to a utility's conduct in referring its customers to a non-regulated affiliate for tax auditing services because tax auditing was not a public utility service. "In order to come within Section 1502, the conduct must relate to the *public service* the utility provides to its customers and the public." *Id.* at 408 (emphasis added by underline; emphasis by italics in original) The Court further explained:

> Complainants complain that PPL has discriminated against *them* because their conduct allegedly impacted Complainants' ability to compete. Complainants, however, were not customers or ratepayers. They provided consulting services to industrial customers. Therefore, this Court does not agree with the Commission that this is the type of discrimination or preferential treatment addressed by Section 1502.

Id. at 409 (emphasis added by underline; emphasis by italics in original).

Therefore, the Court concluded that the utility's actions were not subject to the prohibition on discrimination in Section 1502.

The Commonwealth Court continued:

> As previously pointed out, Section 1502 of the Code is entitled "Discrimination in service." It provides that: "No public utility shall, as to service, make or grant any unreasonable preference or advantage" and further prohibits a public utility from establishing or maintaining "any unreasonable difference as to service, either as between localities or as between classes of service." 66 Pa.C.S. § 1502.
>
> The protection of an energy consultant's economic interests and competitive position, and of those similarly situated, was neither an objective of Section 1502 nor of the regulatory scheme of the Code in general. *See Crown*

> *American Corporation v. Pennsylvania Public Utility Commission,* 76 Pa.Cmwlth. 305, 463 A.2d 1257 (1983); *See also Pennsylvania Petroleum Association v. Pennsylvania Power & Light Company,* 488 Pa. 308, 412 A.2d 522 (1980) (applying this same principle to Section 1304 of the Code). Our courts have recognized that a fundamental duty of the Commission, assigned by the Legislature, is the protection of the public and the ratepayers. Although the Code is undeniably concerned with fostering competition, its scope and reach does not extend to fostering competition between unregulated affiliates.
>
> Here, the issue did not involve a *public utility service,* which would bring it within Section 1502. Rather, the dispute over the customer information involves PPL's disclosure of customer information for the purposes of securing an advantage as a participant in a joint venture which, in turn, supplied *consulting services* for profit. Section 1502, by its plain language, prohibits preferential and discriminatory activities that have to do with service classifications *for consumers.* Section 1502 protects *customers* of a public utility from being subjected to unreasonable discrimination or preferences concerning the establishment of different services for different classes of customers. In order to come within Section 1502, the conduct must relate to *the public service* the utility provides to its customers and the public. Complainants complain that PPL has discriminated against *them* because their conduct allegedly impacted Complainants' ability to compete. Complainants, however, were not customers or ratepayers. They provided consulting services to industrial ratepayers. Therefore, this Court does not agree with the Commission that this is the type of discrimination or preferential treatment addressed by Section 1502.

Id. at 408-409 (emphasis added by underline; emphasis by italics in original).

Although not dispositive on this issue, the Commonwealth Court's decision in *PPL Electric Utilities Corp.* is Columbia's position. Like the tax auditing services in *PPL Electric Utilities Corp. v. Pa. Pub. Util. Comm'n*, the non-commodity services at issue here do not constitute regulated public utility service. Columbia correctly argues the non-commodity products and services that the NGS Parties seek to include on Columbia's bills do not constitute the provision of natural gas service to customers. (NGS Parties St. No. 2, p. 4.) The NGS Parties are not customers or ratepayers. Under the circumstances, it is reasonable to conclude that the prohibition on discrimination in Section 1502 does not apply to Columbia's decision not to include charges on its bill for the non-commodity products and services offered by the NGS Parties because these non-commodity products do not constitute utility service.

The Parties claiming that Columbia's actions violate Section 2203(4) of the Public Utility Code failed to establish such a violation. (NGS Parties St. No. 2, p. 5.) The Parties challenging Columbia's decision to limit on bill billing for non-commodity products to the two non-affiliated entities failed to establish that Columbia's actions violate the *Natural Gas Choice and Competition Act's* non-discrimination provisions. Section 2203(4) provides:

> (4) Consistent with the provisions of section 2204, the commission shall require that a natural gas distribution company that owns or operates jurisdictional distribution facilities shall provide distribution service to all retail gas customers in its service territory and to all natural gas suppliers, affiliated or nonaffiliated, on nondiscriminatory rates, terms of access and other conditions.

66 Pa. C.S. § 2203(4) (emphasis added).

Section 2203(4) prohibits a natural gas distribution company from discriminating among NGSs with respect to natural gas distribution service. No evidence was presented to establish a prohibition of different treatment as between an NGS and another non-affiliated entity with respect to non-utility products and services. The two entities that are authorized by Columbia to include charges for non-commodity services on Columbia's bill are not "NGSs" and do not offer "natural gas supply service" as those terms are defined in the Public Utility Code, 66 Pa. C.S. § 2202. Thus, Columbia's decision to limit on bill billing for the non-commodity services offered by the two non-affiliated entities does not favor one NGS over another and does not favor an affiliate over an NGS.

Section 1502 of the Public Utility Code prohibits discrimination in service. The *Natural Gas Choice and Competition Act* specifically requires that natural gas distribution companies operating jurisdictional distribution facilities provide service to all retail gas customers and natural gas suppliers in its service territory on a nondiscriminatory basis. 66 Pa. C.S. § 2203(4). The Parties challenging Columbia's actions failed to establish that either of these provisions apply to the billing of non-regulated, non-commodity services provided by unaffiliated third parties or that such actions are discriminatory.

The Parties challenging the current practice failed to establish that the Public Utility Code and the Commission's regulations prohibit Columbia from deciding whether to allow non-affiliate charges for non-commodity services on its bills, nor that they require Columbia to open its bill to charges for any non-commodity products and services offered by NGSs once it enters into a contract that allows charges for non-commodity services by an unaffiliated non-NGS entity. Furthermore, the evidence presented in this case did not establish that Columbia's practice is discriminatory. The two entities that are authorized to include charges for non-commodity services on Columbia's bill are not NGSs, and Columbia by its current practice, is not favoring one NGS over another. Moreover, unlike the optional non-commodity services that are currently authorized to be included on Columbia's bill, the non-commodity products and services proposed to be offered by the NGS Parties encompass items that are in no way related to natural gas service. Under the circumstances presented in this case, Columbia should have the right to refuse NGSs access to the Company's bills to charge for these products and services.

Columbia established that when billing for non-commodity services, Columbia strictly adheres to the Commission's regulations regarding standards and billing practices for residential utility service, which includes separate identification of the charges for non-commodity services and prohibition of termination for non-payment of non-commodity charges.

As explained in detail above, Columbia's decision to provide on bill billing for the two unaffiliated entities is the result of a unique transaction involving two prior Columbia affiliates. Following the sale of these businesses, Columbia decided to continue billing for the non-commodity services provided by these entities. (Columbia St. No. 18-R, pp. 3-4.) Conversely, the NGS Parties seek to *mandate* that Columbia open its bill for the non-commodity products and services that the NGSs market, while failing to provide any authority to support such a mandate.

In their Main Brief, the NGS Parties argue that "billing" customers is the "service" at issue in this case. (NGS M.B. pp. 4-7.) The NGS Parties argue that NGSs are customers of Columbia for billing services, which are regulated by the Commission. The NGS Parties assert they wish to "purchase" additional service, the same way that is now exclusively

provided to the former affiliates, and that request has been denied by Columbia. (NGS Reply Brief, pp. 3-4.)

There is no doubt that Columbia's practices used in billing customers is regulated by the Commission.

Columbia established that it bills and collects the charges for non-commodity services provided by CSP and Nicor in accordance with the Public Utility Code, 66 Pa.C.S. § 1501 *et seq*., and the Commission's regulations at 52 Pa.Code § 1.1 *et seq.* The Commission has set forth certain billing standards to address these issues, and Columbia's on bill billing practices for the non-commodity charges comply with those standards.

Chapter 56 of the Commission's regulations sets forth the standards and billing practices for residential utility service. Chapter 56 provides, in pertinent part:

> Payments received by a public utility without written instructions that they be applied to merchandise, appliances, special services, meter testing fees or other nonbasic charges and which are insufficient to pay the balance due for the items plus amounts billed for basic utility service shall first be applied to the basic charges for residential public utility service.

52 Pa.Code § 56.23. In accordance with Section 56.23, any partial payments are applied to the customer's utility service balance, including distribution and commodity charges. Non-commodity products and services are paid after the utility service balance is fully satisfied. (Columbia St. No. 18-SR, p. 4; Columbia Ex. No. NP-2-SR.)

The Commission's regulations further state:

> Unless expressly and specifically authorized by the Commission, service may not be terminated nor will a termination notice be sent for any of the following reasons:
>
> ****
>
> (3) Nonpayment, in whole or in part, of nonbasic charges for leased or purchased merchandise, appliances or special services including, but not limited to,

> merchandise and appliance installation fees, rental and repair costs; meter testing fees; special construction charges; and other nonrecurring or recurring charges that are not essential to delivery or metering of service, except as provided in this chapter.
>
> ****

52 Pa.Code § 56.83(3); (Columbia M.B. pp. 20-21.) Columbia established that it will not disconnect a customer for non-payment of non-commodity charges. When customers inquire with Columbia regarding the non-commodity charges on their bill, Columbia clearly discloses to the customer that CSP and Nicor are vendors that sell warranty service plans and are not affiliated with Columbia in any way. This disclosure is also provided on customers' bill statements each month. (Columbia St. No. 18-SR, p. 4; Confidential Columbia Ex. No. NP-4-SR.) Columbia further informs the customer that non-payment of the charges for these optional services will not result in any delinquent fees or late charges by Columbia and will never result in termination of natural gas service to the customer's home. (*Id*.)

Columbia's Current Non-Commodity Billing Practices

Columbia asserts that the NGS Parties incorrectly allege that Columbia did not seek approval for its affiliated interest agreements with CSP and Nicor.[34]

Columbia asserts that the NGS Parties state for the first time in their Main Brief that there is no evidence in the record that approval was obtained for the agreements with CSP and Nicor when they were affiliates of Columbia. In its Reply Brief, Columbia provides a footnote that provides the NGS Parties' argument is also procedurally improper. The NGS Parties have raised this argument for the first time at the briefing stage of this proceeding. Had the NGS Parties raised this argument in their direct case, Columbia would have responded by presenting evidence that it did, in fact, obtain the proper affiliated interest agreement approval for its agreements with CSP and Nicor. By presenting this argument for the first time after the submission of testimony and the evidentiary hearing, Columbia has no meaningful opportunity to

[34] OCA witness Alexander raised concerns about Columbia's current non-commodity billing practices, but recommended that no changes be made at this time as part of this rate case based upon the evidence presented in this proceeding. (OCA M.B. p. 9.)

respond or present evidence countering the NGS Parties' allegation. For this reason, the NGS Parties' argument should not be considered. *See Application of PPL Electric Utilities Corp.*, 2009 Pa. PUC LEXIS 2323, 227 (2009) (a conjecture introduced for the first time in a brief with no basis in the record will be ignored). (Columbia R.B. pp. 6-7.)

According to Columbia, the NGS Parties' allegation that Columbia did not obtain the proper approval for its affiliated interest agreements is factually incorrect.[35] (Columbia R.B. pp. 6-7.) Regardless, this issue was not timely raised in this proceeding and it would be unfair to address this issue based upon the record evidence in this proceeding.

IX. CONCLUSION AND RECOMMENDATION

The sole issue reserved for litigation in this case is whether Columbia should be permitted to continue its current practice of including on its bills charges for non-commodity services offered by the two former non-NGS affiliates, currently provided, without being required to bill for non-commodity products and services offered by NGSs. Columbia's position is that it should have the right to determine what entities, if any, may contract with Columbia to include non-commodity charges on Columbia's customer bills. I recommend that Columbia should not be required to bill for other non-commodity products and services offered by NGSs simply because it has contracted with two unaffiliated, non-NGS entities to bill for certain defined non-commodity services.

The Parties objecting to Columbia's current practice failed to meet their burden of proof that the Public Utility Code and the Commission's regulations prohibit Columbia from deciding whether to allow non-affiliate charges for non-commodity services on its bills. The objecting Parties also failed to establish that Columbia is required to open its bill to charges for any non-commodity products and services offered by NGSs once it enters into a contract that

[35] Columbia explains that it ceased affiliation with CSP and Nicor nearly a decade ago. (NGS Parties' M.B., p. 7.) Prior to entering the agreements with CSP and Nicor in the 1990s, Columbia asserts that it did, in fact, seek and receive Commission approval of these agreements. *See Affiliated Interest Agreement Between Columbia Gas of Pennsylvania, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc. and Columbia Services Partners, Inc.,* Docket No. G-00960483 (Order entered July 18, 1996); *Affiliated Interest Agreement Between Columbia Gas of Pennsylvania, Inc., Columbia Gas of Maryland, Inc., Columbia Energy Services Corporation, Columbia Gas of Ohio, Inc., and NiSource Retail Services, Inc.,* Docket No. G-00960483 (February 19, 2004).

allows charges for non-commodity services by an unaffiliated non-NGS entity. The NGS Parties also failed to establish that Columbia's decision to limit the number of entities who may include charges for optional services on Columbia's bill is discriminatory because the Company does not also bill for non-commodity products and services offered by NGSs. The non-commodity services are not utility services, and Columbia's selection of only two entities to be authorized to include charges on Columbia's bill under the circumstances in this proceeding, is not discriminatory to utility customers. The two entities that are authorized to include charges for non-commodity services on Columbia's bill also are not NGSs, and Columbia has not favored one NGS over another.

Both OCA and CAUSE-PA agree with Columbia that the NGS Parties should not have access to Columbia's bills for purposes of billing non-commodity charges. However, OCA and CAUSE-PA have expressed concerns with Columbia's existing billing for non-commodity charges. When billing for non-commodity services, Columbia is required to and has demonstrated that it adheres to the Commission's regulations regarding standards and billing practices for residential utility service, which includes separate identification of the charges for non-commodity services and prohibition of termination for non-payment of non-commodity charges.

No evidence was presented to establish that Columbia's current practice of billing for non-commodity services is unlawful or should be discontinued at this time. The NGS Parties' request to require Columbia to bill for other non-commodity products and services provided by the NGS Parties should be denied.

X. CONCLUSIONS OF LAW

1. Under the Public Utility Code, rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301 and 1304.

2. A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. 66 Pa.C.S. § 315(a); *Pa. Pub. Util. Comm'n v. Aqua Pennsylvania, Inc.*, Docket No. R-00038805, 236 PUR 4th 218, 2004 Pa. PUC LEXIS 39 (August 5, 2004).

3. A public utility, in proving that its proposed rates are just and reasonable, does not have the burden to affirmatively defend claims made in its filing that no other party has questioned. *Allegheny Center Assocs. v. Pa. Pub. Util. Comm'n*, 570 A.2d 149, 153 (Pa.Cmwlth. 1990).

4. A party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Pa. Pub. Util. Comm'n v. PECO*, Docket No. R-891364, 1990 Pa. PUC LEXIS 155 (May 16, 1990); *Pa. Pub. Util. Comm'n v. Breezewood Telephone Company*, Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (January 31, 1991).

5. A party challenging a tariff provision previously approved by the Commission bears the burden to demonstrate that the Commission's prior approval is no longer justified. *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-00061931, 2007 Pa. PUC LEXIS 45 at *165-68 (September 28, 2007).

6. A party that raises an issue that is not included in a public utility's general rate case filing bears the burden of proof. *Pa. Pub. Util. Comm'n v. Metropolitan Edison Company,* Docket No. R-00061366, 2007 Pa. PUC LEXIS 5 (January 11, 2007).

7. The issue reserved for litigation was not presented in Columbia's filing and, therefore, the parties proposing changes to billing for non-commodity products and services bear the burden of proof on this issue.

8. The Commission has recognized that "quality of service issues are frequently raised in a base rate proceeding," and that "our duties and powers under the Code to

appropriately remedy a quality of service issue or an existing rate issue are not limited or diminished simply because such issues are raised in the context of a Section 1308(d) general base rate increase proceeding." *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works,* Docket No. R-2017-2586783 at 14-15 (Opinion and Order entered May 18, 2018).

9. Columbia is required to bill for natural gas supply service provided by NGSs in accordance with 66 Pa.C.S. § 2205(c).

10. Columbia is not required by the Public Utility Code, 66 Pa.C.S. § 1501 *et seq*., or the Commission's regulations, 52 Pa.Code § 1.1 *et seq*., to bill for non-utility products and services.

11. Section 1502 of the Public Utility Code does not apply to acts by the utility that are not related to utility service. *See PPL Electric Utilities Corp. v. Pa. Pub. Util. Comm'n*, 912 A.2d 386 (Pa.Cmwlth. 2006).

12. Columbia's decision to provide an on bill billing option for the current unaffiliated, non-NGS entities, while not allowing the same billing option for NGSs, is not discriminatory under 66 Pa.C.S. § 1502.

13. Section 2203(4) of the Public Utility Code prohibits a natural gas distribution company from discriminating among NGSs with respect to natural gas distribution service.

14. Columbia's decision to provide an on bill billing option for the current unaffiliated, non-NGS entities, while not allowing the same billing option for NGSs, is not discriminatory under 66 Pa.C.S. § 2203(4).

15. Discrimination must be unreasonable to constitute a violation of Section 1502. *Pa. Pub. Util. Comm'n v. Nat'l Fuel Gas Distribution Corp.*, 2000 Pa. PUC LEXIS 883,

13 (June 29, 2000) citing *United Natural Gas Co. v. Pa. Pub. Util. Comm'n*, 22 A.2d 752, 757 (Pa. Super. 1943).

16. The Public Utility Code and the Commission's regulations do not prohibit Columbia from offering on bill billing for the non-commodity services provided by two unaffiliated, non-NGS entities.

17. Neither CSP or Nicor nor the non-commodity services they offer that currently appear on Columbia's customer bills are regulated by the Commission.

18. Columbia bills and collects the charges for non-commodity services provided by CSP and Nicor in accordance with the Public Utility Code, 66 Pa.C.S. § 1501 *et seq*., and the Commission's regulations at 52 Pa.Code § 1.1 *et seq*.

19. The NGS Parties' issue, initially raised in their briefs, that Columbia did not obtain approval for its agreements with CSP and Nicor, is not a proper issue for determination in this proceeding. See *Application of PPL Electric Utilities Corp.*, 2009 Pa. Lexis 2323, 227 (2009) (a conjecture involved for the first time in a brief with no basis in the record will be ignored).

XI. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Partial Settlement entered into between the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, Columbia Industrial Intervenors, Dominion Retail, Inc., Shipley Choice, LLC, Interstate Gas Supply, Inc., Direct Energy Business, LLC, Direct Energy Services, LLC,

Direct Energy Business Marketing, LLC, Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, Community Action Association of Pennsylvania, Pennsylvania State University, and Columbia Gas of Pennsylvania, Inc., in the above-captioned case is hereby approved and adopted.

2. That Columbia Gas of Pennsylvania, Inc. shall file tariff supplements, to become effective for service rendered on and after December 16, 2018, on at least one-day's notice to the Commission, consistent with the terms and conditions of the Partial Settlement.

3. That the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, Columbia Industrial Intervenors, Dominion Retail, Inc., Shipley Choice, LLC, Interstate Gas Supply, Inc., Direct Energy Business, LLC, Direct Energy Services, LLC, Direct Energy Business Marketing, LLC, Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, Community Action Association of Pennsylvania, Pennsylvania State University, and Columbia Gas of Pennsylvania, Inc., shall comply with the terms and conditions of the Partial Settlement submitted in this proceeding as though each term and condition stated therein had been subject of an individual ordering paragraph.

4. That upon Columbia Gas of Pennsylvania, Inc.'s filing of tariff supplements acceptable to the Commission as conforming with this order and the Partial Settlement and the Commission's approval thereof, the rates established therein shall become effective for service rendered on and after December 16, 2018.

5. That the complaint filed by the Office of Small Business Advocate in this proceeding at Docket No. C-2018-3000773 be deemed satisfied and marked closed.

6. That the complaint filed by the Office of Consumer Advocate in this proceeding at Docket No. C-2018-3000582 be deemed satisfied and marked closed.

7. That the complaint filed by Patricia Southorn at Docket No. C-2018-3000779 be dismissed and the docket marked closed.

8. That the complaint filed by G. Blair Bauer at Docket No. C-2018-3001319 be dismissed and the docket marked closed.

9. That the complaint filed by Philip L. Bloch at Docket No. C-2018-3001634 be dismissed and the docket marked closed.

10. That the complaint filed by Robin A. Harrison at Docket No. C-2018-3002595 be dismissed and the docket marked closed.

11. That the request of Dominion Retail, Inc., Shipley Choice, LLC, and Interstate Gas Supply, Inc., collectively referred to as the NGS Parties, to require Columbia Gas of Pennsylvania, Inc. to bill for non-commodity products and services offered by the NGS Parties be denied.

12. That the complaint filed by Columbia Industrial Intervenors at Docket No. C-2018-3001047 be deemed satisfied and marked closed.

13. That the complaint filed by Pennsylvania State University at Docket No. C-2018-3001034 be deemed satisfied and marked closed.

14. That Columbia Gas of Pennsylvania, Inc. is permitted to continue billing for the non-commodity service, provided by the current two unaffiliated, non-NGS Parties, at the present time.

15. That upon acceptance and approval by the Commission of the tariff supplement and supporting data filed by Columbia Gas of Pennsylvania, Inc. as being consistent

with this Recommended Decision and the Partial Settlement, the inquiry and investigation at Docket No. R-2018-2647577 shall be terminated and the docket marked closed.

Date: September 18, 2018

/s/
Jeffrey A. Watson
Administrative Law Judge