

COMMONWEALTH OF PENNSYLVANIA



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October 25, 2018

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Pa. Public Utility Commission
v.
Columbia Gas of Pennsylvania, Inc.
Docket No. R-2018-2647577

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply
Exceptions in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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Attachments

cc: Honorable Jeffrey A Watson, ALJ
Office of Special Assistants (e-mail only: ra-OSA@pa.gov)
Certificate of Service

*260815

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :
v. : Docket No. R-2018-2647577
Columbia Gas of Pennsylvania, Inc. :

I hereby certify that I have this day served a true copy of the following documents, the Office of Consumer Advocate's Reply Exceptions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 25th day of October 2018.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2018-2647577
 :
 Columbia Gas of Pennsylvania, Inc. :

REPLY EXCEPTION OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: October 25, 2018

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I. INTRODUCTION

All issues raised in Columbia Gas of Pennsylvania, Inc.'s (Columbia or the Company) base rate proceeding were resolved by a Partial Settlement with the exception of a single, contested issue regarding the inclusion of non-commodity products and services on customer bills. This issue arose from Columbia's current billing practice, which allows two former affiliates to include non-commodity charges on Columbia's customer bills. Throughout the proceeding, Shipley Choice, LLC, Dominion Energy Solutions, Inc., and Interstate Gas Supply, Inc. (NGS Parties) argued that Columbia's current billing practice is discriminatory to natural gas suppliers (NGSs). To remedy this problem, the NGS Parties proposed to allow all NGSs to include NGS non-commodity products and services on Columbia's customer bills.

As discussed in the Office of Consumer Advocate's (OCA) Main and Reply Briefs, OCA witness Barbara R. Alexander raised a variety of concerns regarding Columbia's current practice, but rejected the NGS Parties' proposal to allow all NGSs to include non-commodity products and services on Columbia's customer bill as a resolution of those issues. Ms. Alexander testified that the NGS Parties' proposal does not resolve her concerns and raises additional concerns. OCA St. 5-R at 4-9; OCA M.B. at 7-10; OCA R.B. at 2-4. Therefore, the OCA argued that the proposal to add additional non-commodity products and services to customer bills is not a reasonable solution to the multitude of issues raised by the Company's current billing practice.

On September 28, 2018, Administrative Law Judge Jeffrey A. Watson (ALJ Watson) issued a Recommended Decision addressing the parties' Joint Petition for Partial Settlement and the NGS Parties' non-commodity billing proposal. Regarding the non-commodity billing proposal, ALJ Watson determined 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 products” and recommended that the “NGS Parties’ request to require Columbia to bill for other non-commodity products and services provided by the NGS Parties should be denied.” R.D. at 117, 118. The OCA agrees with the result reached by the ALJ.

On October 15, 2018, the NGS Parties filed Exceptions. In Exception No. 2, the NGS Parties argued that the ALJ erred in concluding that the NGS Parties have not proven unreasonable discrimination and that it is reasonable for NGSs to bill for non-commodity products on Columbia’s customer bills. NGS Exc. at 5, 6-7. The OCA respectfully requests that the Commission deny the NGS Parties’ Exception No. 2 for the reasons set forth herein.

II. REPLY EXCEPTION

Reply To NGS Parties' Exception No. 2: The NGS Parties Failed To Demonstrate That Their Proposal Is A Reasonable Solution To The Issues Raised By Columbia's Current Billing Practice. R.D. at 117-118; OCA M.B. at 7-10; OCA R.B. at 2-4.

In Exception No. 2, the NGS Parties argued that the ALJ “erred in concluding that the NGS Parties have not carried their burden of proving unreasonable discrimination.” NGS Exc. at 5. The NGS Parties further argued that it is “more than reasonable for NGS parties to bill for the same products for which Columbia allows it[s] former affiliate to bill.” NGS Exc. at 6-7. The OCA submits that the NGS Parties failed to demonstrate that their proposal is a reasonable solution to the issues raised by Columbia’s current billing practice.¹

The NGS Parties correctly identified that Columbia’s current billing practice of allowing two former affiliates to include non-commodity charges on its customer bills raises significant concerns. OCA M.B. at 8. As the OCA argued in its Main Brief, there is a legitimate concern regarding Columbia’s current practice of billing for unregulated and non-commodity services and products on its regulated bill for essential distribution and commodity services as neither the prices for these services nor their terms and conditions are regulated by the Commission. OCA St. 5-R at 4; OCA M.B. at 8; OCA R.B. at 3. Additionally, it is unclear from the record in this case how the services are marketed and sold to Columbia customers and it may be unclear to customers that non-commodity charges are not regulated and that payment for these charges is not linked to the retention of utility service. OCA St. 5-R at 7; OCA M.B. at 8-9. The NGS Parties proposed to

¹ The NGS Parties did not provide evidence demonstrating the reasonableness of their proposal to include additional non-commodity products on Columbia’s customer bills. See Pa. PUC v. Breezewood Telephone Co., 1991 Pa. PUC LEXIS 45 (Order entered January 31, 1991), at *10 (“the Commission has indicated that where a party proposes an adjustment to a ratemaking claim of a utility, the proposing party does bear the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment.”); see also Pa. PUC v. Superior Water Co., 2009 Pa. PUC LEXIS 1055 (Order entered February 5, 2009), at *18 (“it is well established that the burden of proof does not shift to the parties challenging a rate increase.”)

allow all NGSs to bill for non-commodity products and services on Columbia's customer bill to remedy the discrimination concerns raised by the NGSs Parties. The NGS Parties' proposal, however, is not a reasonable solution to the concerns with Columbia's current billing practice and, in fact, the proposal raises additional concerns.

In particular, as OCA witness Alexander explained, Columbia's current billing practice "is not reflected in Columbia's tariff or any explicit Commission order" and the inclusion of former affiliates' non-commodity charges may give rise to "a reasonable assumption by customers that such services are regulated or supervised by the Commission," although the services are not. OCA St. 5-R at 4; OCA M.B. at 8; OCA R.B. at 3, 4. Moreover, it may be unclear to customers that payment for non-commodity services is not necessary to avoid termination of utility service as non-commodity charges are included in the total amount due. OCA St. 5-R at 6-7; OCA M.B. at 8. As OCA witness Alexander stated, "it is not proper for the utility bill to be used as a collection tool for all such unregulated products and services."² OCA St. 5-R at 6; OCA M.B. at 8.

With regard to the NGS Parties' proposal, allowing all NGSs to bill for non-commodity products and services on Columbia's customer bills "raises additional and potentially complex consumer protection issues." OCA St. 5-R at 8; OCA M.B. at 9; OCA R.B. at 4. For instance,

² While not adopting the NGS Parties' proposal, the ALJ also dismissed the concerns raised by OCA witness Alexander pointing to Section 56.13 of the Commission's regulations, 52 Pa. Code § 56.13. R.D. at 99, 118. Section 56.13 governs "charges for other than basic service." 52 Pa. Code § 56.13. The OCA is concerned that the ALJ gave an overly broad reading to Section 56.13. It appears that the ALJ interpreted Section 56.13 to allow a distribution company to include on customer bills charges for any non-commodity products and services offered by third parties. Section 56.13 makes no reference to "third parties" being permitted to include non-commodity charges on the utility bill. Further, the non-commodity products and services identified in Section 56.13 are limited and Section 56.13 does not contemplate a wide range of non-commodity products and services. Section 56.13 addresses only "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" as well as "optional recurring services" such as "line repair programs and appliance warranty programs." 52 Pa. Code § 56.13. Accordingly, Section 56.13 envisioned allowing limited, non-basic charges for specific types of products and services to be included on customer utility bills, not opening utility bills to charges from any third party.

“NGSs may seek to bundle their non-commodity . . . services to 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.” OCA St. 5 at 8; OCA M.B. at 9. Additionally, it is unclear “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.” OCA St. 5 at 8-9; OCA M.B. at 9.

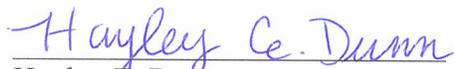
Consequently, it is not reasonable to allow more non-commodity charges on Columbia’s customer bill. The NGS Parties failed to demonstrate that their proposal to add additional non-commodity products and services to Columbia’s customer bills is a reasonable solution to the multitude of issues raised by the Company’s current billing practice.³ For this reason, the OCA submits that the ALJ’s recommendation to reject the NGS Parties’ proposal should be adopted.

³ See *supra*, n. 1.

III. CONCLUSION

As set forth above, the OCA respectfully requests that the Commission deny the NGS Parties' Exception No. 2 as well as the NGS Parties' proposal to allow additional non-commodity charges to be included on Columbia's customer bills.

Respectfully Submitted,



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