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December 28, 2018

VIA ELECTRONIC FILING

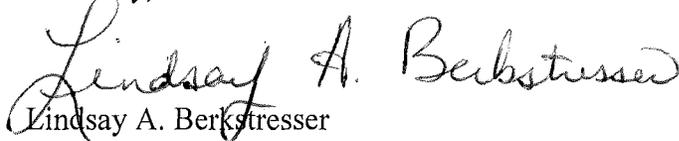
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, et al. v. Columbia Gas of Pennsylvania, Inc.
Docket Nos. R-2018-2647577, etc.

Dear Secretary Chiavetta:

Enclosed please find Columbia Gas of Pennsylvania's Answer to CAUSE-PA's Petition for Reconsideration in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Sincerely,


Lindsay A. Berkstresser

LAB/cls
Enclosure

cc: Honorable Jeffrey Watson
Certificate of Service

**CERTIFICATE OF SERVICE
(Docket No. R-2018-2647577)**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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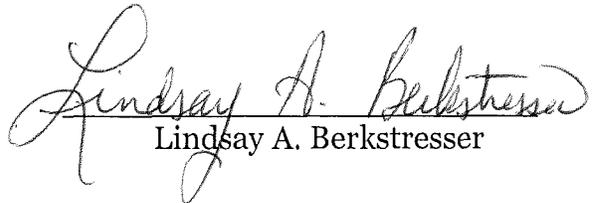
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Date: December 28, 2018


Lindsay A. Berkstresser

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No. 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.	:	

**ANSWER OF COLUMBIA GAS OF PENNSYLVANIA, INC.
TO THE PETITION FOR RECONSIDERATION OF
THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY
EFFICIENCY IN PENNSYLVANIA**

Columbia Gas of Pennsylvania, Inc. (“Columbia” or the “Company”), pursuant to Section 703(g) of the Public Utility Code, 66 Pa.C.S. § 703(g) and Section 5.572(e) of the Pennsylvania Public Utility Commission’s (“Commission”) regulations, 52 Pa. Code § 5.572(e), hereby submits this Answer to the Petition for Reconsideration of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) and requests that the Commission (1) rescind its Order finding that Columbia’s existing on bill billing policies are discriminatory and directing Columbia to provide on bill billing for all entities that offer for non-commodity products and services or discontinue its on bill billing practice; and (2) adopt the Recommended Decision of Administrative Law Judge Jeffrey A. Watson.

I. BACKGROUND

1. Columbia is engaged in the business of selling and distributing natural gas to retail customers within the Commonwealth, and is therefore a “public utility” within the meaning of Section 102 of the Public Utility Code, 66 Pa. C.S. § 102, subject to the regulatory jurisdiction of the Commission.

2. On March 16, 2018, Columbia filed a request for a revenue increase of approximately \$46.9 million annually based upon a pro forma fully projected future test year ending December 31, 2019 (“2018 Base Rate Filing”). The 2018 Base Rate Filing was Docketed at R-2018-2647577 and assigned to Administrative Law Judge Jeffrey A. Watson (the “ALJ”).

3. Formal Complaints were filed by the Office of Consumer Advocate (“OCA”), Office of Small Business Advocate (“OSBA”), Columbia Industrial Intervenors (“CII”), The Pennsylvania State University (“PSU”), Patricia Southorn, G. Blair Bauer, Philip L. Bloch, and Robin A. Harrison. Petitions to Intervene were filed by Shipley Choice, LLC, Dominion Energy Solutions, Inc. and Interstate Gas Supply, Inc. (collectively, the “NGS Parties”), Direct Energy Business, LLC, Direct Energy Services, LLC & Direct Energy Business Marketing, LLC (collectively, “Direct Energy”), Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), and Community Action Association of Pennsylvania (“CAAP”). The Commission’s Bureau of Investigation & Enforcement (“I&E”) filed a Notice of Appearance.

4. Throughout the proceeding and in accordance with the litigation schedule, various parties conducted discovery and filed direct, rebuttal, and surrebuttal testimony.

5. The parties held numerous settlement discussions which ultimately led to a settlement of all issues in this case with one exception. The sole issue reserved for

litigation was 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 (“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.

6. On August 16, 2018, Columbia, the NGS Parties, Direct Energy, and the OCA filed Main Briefs concerning the issue reserved for litigation.

7. On August 31, 2018, Columbia, the NGS Parties, and the OCA filed Reply Briefs.

8. Also on August 31, 2018, the parties filed a Joint Petition for Partial Settlement.

9. On September 28, 2018, the ALJ issued a Recommended Decision (“RD”) recommending that the Joint Petition for Partial Settlement be approved without modification and that the NGS Parties’ request to require Columbia to bill for non-commodity products offered by the NGSs be denied. With respect to the litigated issue, the RD concluded that Columbia’s decision to limit the entities who may include charges for optional non-commodity products on Columbia’s bill is not discriminatory because the NGSs are not utility customers, and Columbia is not favoring one NGS over another. RD, pp. 117-18.

10. On October 15, 2018, the NGS Parties filed Exceptions to the RD.

11. On October 25, 2018, Columbia and the OCA filed Reply Exceptions.

12. In the December 6, 2018 Order, the Commission granted, in part, and denied, in part, the NGS Parties’ Exceptions. The Order adopted the RD’s recommendation to approve the Joint Petition for Partial Settlement without

modification but did not adopt the RD's recommendation with respect to the litigated issue. Instead, the Order concluded that Columbia's existing practice is discriminatory pursuant to Sections 1502 and 2204 of the Public Utility Code and directed Columbia to provide on bill billing for all entities that offer non-commodity products and services or discontinue its on bill billing practice. Order, pp. 50-51.

13. The OCA, CAUSE-PA, and Columbia filed Petitions for Reconsideration of the Commission's Order. The NGS Parties filed an Answer to the OCA's Petition for Reconsideration.¹

II. ARGUMENT

A. **CAUSE-PA'S PROPOSAL TO PHASE OUT COLUMBIA'S EXISTING PRACTICE OF PROVIDING ON BILL BILLING TO TWO UNAFFILIATED, NON-NGS ENTITIES SHOULD BE REJECTED.**

14. In its Petition, CAUSE-PA requests limited reconsideration of the Commission's Order. CAUSE-PA does not challenge the Commission's determination that Columbia's existing on bill billing policies are discriminatory. Rather, CAUSE-PA requests that the Commission reconsider its decision to permit Columbia to either provide on bill billing for the non-commodity products and services offered by NGSs or discontinue its on bill billing policies as a "remedy" for the Commission's finding of discrimination. CAUSE-PA Petition, p. 2. Further, CAUSE-PA requests that the Commission "require Columbia to submit a detailed plan to *phase out* its current arrangement offering non-commodity billing services to two former affiliates." CAUSE-PA Petition, p. 12. Columbia submits that the Order erred in determining that the

¹ On December 27, 2018, Columbia filed a letter stating that it would not be filing an Answer to the OCA's Petition for Reconsideration. The Company notes that the OCA's Petition for Reconsideration does not request that the Commission direct Columbia to cease its current practice of providing on bill billing for two unaffiliated, non-NGS entities.

Company's existing on bill billing policies are discriminatory. Therefore, no "remedy" is needed, and Columbia's existing policies should be permitted to continue without modification.

15. As Columbia explained in its Briefs, Columbia's decision to limit the entities permitted to include charges on its bill for non-commodity products and services is not discriminatory because the NGS complainants are not customers or ratepayers of Columbia, and Columbia is not favoring one NGS over another. Columbia M.B., pp. 9-13; Columbia R.B., pp. 2-6.

16. Section 1502 of the Public Utility Code, 66 Pa. C.S. § 1502, does not apply here because the complaining parties, NGSs, are not customers or ratepayers. *See PPL Electric Utilities Corp. v. Pa. PUC*, 912 A.2d 386 (Cmwlth. Ct. 2006). In *PPL*, the Commonwealth Court 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.

PPL Electric Utilities Corp., 912 A.2d at 409 (emphasis added). Section 1502 does not apply to the non-commodity services offered by unaffiliated entities who are not customers or ratepayers, such as the NGSs. As in *PPL*, the type of treatment at issue here, i.e. the treatment of a non-customer or non-ratepayer, is not the type of treatment that is addressed by Section 1502. Therefore, the Order improperly rejected the RD's

conclusion that Columbia's practice is not discriminatory pursuant to Section 1502 because the party alleging discrimination is not a customer or ratepayer. RD, pp. 117-18.

17. Columbia's on bill billing policies are not discriminatory pursuant to Section 2203(4) of the Public Utility Code, 66 Pa. C.S. § 2203(4) because Columbia is not treating NGSs differently. 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.

The two unaffiliated entities for which Columbia currently provides on bill billing are not NGSs, and Columbia does not provide on bill billing to any NGS. Columbia is not treating one NGS differently than another NGS. Section 2203(4) concerns treatment as between NGSs. Therefore, Columbia's existing practice is not discriminatory pursuant to Section 2203(4).

18. Based on the foregoing, Columbia respectfully requests that the Commission rescind the Order as it relates to the litigated issue, and adopt the RD of ALJ Watson. Further, Columbia requests that CAUSE-PA's recommendation that the Commission order Columbia to "phase out" its existing on bill billing policies be rejected.

B. CAUSE-PA CORRECTLY CONCLUDES THAT COLUMBIA'S EXISTING ON BILL BILLING POLICIES ARE LAWFUL AND COMPLY WITH THE COMMISSION'S REGULATIONS.

19. CAUSE-PA argues that the NGS Parties have not met their burden of demonstrating that their proposal to open Columbia's bills to all NGSs who offer non-

commodity products is in the public interest and should be adopted. CAUSE-PA also cites to many potential issues with the NGS Parties' proposal. CAUSE-PA Petition, pp. 5-11. Columbia agrees that the NGS Parties have not met their burden of proof, and that there are many problems with the NGS Parties' proposal.

20. Specifically, Columbia concurs with CAUSE-PA concerning the following problems with expanding on bill billing under the NGS Parties' proposal: (1) customers may mistakenly believe that Columbia endorses all of the third-party products that could appear on its bills, (2) opening Columbia's bills to multiple third parties who offer several different types of products unrelated to commodity service would result in significant customer confusion, (3) the potential products being offered are not defined, (4) calls to Columbia's call center about unregulated products offered by third parties would increase, (5) there is currently no way to ensure that proper consumer disclosures would be issued by NGSs, (6) NGSs could market non-commodity products in connection with natural gas supply, making it difficult, if not impossible, to compare commodity prices, and (7) costly system upgrades are needed to implement the proposal. CAUSE-PA recognizes that these issues are not applicable to Columbia's existing on bill billing policies because Columbia's on bill billing is limited to two entities that utilize this billing service for a defined subset of non-commodity products and services². Under Columbia's existing policies, there is no concern of marketing these limited non-commodity products in connection with gas supply service because Columbia does not market the non-commodity products, and the two unaffiliated

² The two entities utilize Columbia's billing statement to collect charges for service plans for the repair and maintenance of customer-owned service lines, appliances and equipment related to the service of natural gas.

entities do not offer gas supply service. CAUSE-PA Petition, pp. 4-11; Columbia M.B., pp. 17, 21.

21. However, the problems identified by CAUSE-PA with the expansion of on bill billing do not exist with Columbia's limited on bill billing practices. CAUSE-PA recognizes that Columbia's current on bill billing policies are lawful and comply with the Commission's regulations governing billing, collection, and termination. CAUSE-PA Petition, p. 7; Columbia M.B., pp. 19-23. Columbia bills and collects the charges for limited non-commodity services provided by the two unaffiliated entities 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. 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. Columbia explained that 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 explained 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 the two unaffiliated entities 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 offers limited on bill billing pursuant to its agreements with the unaffiliated entities, but the Company does not market these limited non-commodity services offered by these vendors. All marketing is performed directly by the entities offering the non-commodity products (Columbia St. No. 18-SR, p. 7). In addition, all outreach materials provided by these entities include disclosures stating that these entities are independent from Columbia and that the service plans being provided by them are not regulated by the Commission (Columbia St. No. 18-SR, p. 3).

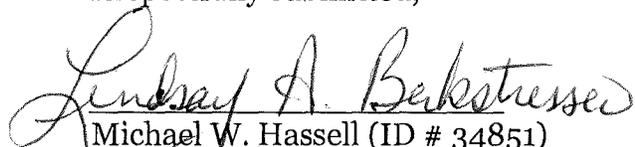
Finally, in accordance with Section 62.78 of the Commission's regulations, Columbia provides customers with the opportunity to opt out of having their

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 clearly 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 the third party entities (Columbia St. No. 18-SR, p. 7). Without proper account number identification, Columbia will not charge the customer for the non-commodity products provided by the unaffiliated entities.

Based on this evidence, the ALJ concluded that Columbia's existing on bill billing policies are lawful and comply with the Commission's regulations. RD, p. 118. The Order did not refute this finding. Therefore, there is no basis to direct Columbia to cease its existing on bill billing policies, and Columbia should be permitted to continue its lawful practice of providing on bill billing for the limited non-commodity services offered by the two unaffiliated, non-NGS entities.

WHEREFORE, for the foregoing reasons, Columbia Gas of Pennsylvania, Inc. respectfully requests that the Pennsylvania Public Utility Commission (1) rescind its Order finding that Columbia's existing on bill billing policies are discriminatory and directing Columbia either to provide on bill billing for all entities that offer non-commodity products and services or discontinue its on bill billing practice and (2) adopt the Recommended Decision of Administrative Law Judge Jeffrey A. Watson.

Respectfully submitted,



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Date: December 28, 2018

Attorneys for Columbia Gas of Pennsylvania, Inc.

VERIFICATION

I, Andrew S. Tubbs, being the Vice President, External & Customer Affairs for Columbia Gas of Pennsylvania, Inc., hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 12-27-2018

A handwritten signature in black ink, appearing to read "Andrew S. Tubbs", written over a horizontal line.

Andrew S. Tubbs