Hawke McKeon & Sniscak LLP
ATTORNEYS AT LAW

Thomas J. Sniscak
(717) 236-1300 x224
tjsniscak@hmslegal.com

Whitney E. Snyder
(717) 236-1300 x260
wesnyder@hmslegal.com

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmslegal.com

October 16, 2020

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor (filing room)
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.; Docket No. R-2020-3018835;

The Pennsylvania State University v. Columbia Gas of Pennsylvania, Inc.; Docket No. C-2020-3020666;

THE PENNSYLVANIA STATE UNIVERSITY'S MAIN BRIEF

Dear Secretary Chiavetta:

Enclosed please find The Pennsylvania State University's Main Brief in the above-referenced dockets. Copies have been served in accordance with the attached Certificate of Service.

Should you have any questions or comments, please feel free to contact me directly.

Very truly yours,

/s/ Thomas J. Sniscak
Thomas J. Sniscak
Whitney E. Snyder

Counsel for The Pennsylvania State University

TJS/WES/das
Enclosure
cc: Honorable Katrina Dunderdale (via email kdunderdal@pa.gov)
Per Certificate of Service (letter and certificate of service only)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA ELECTRONIC MAIL ONLY

Michael W. Hassell, Esquire
Lindsay A. Berkstresser, Esquire
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101
mhassell@postschell.com
lberkstresser@postschell.com

Counsel for
Columbia Gas of Pennsylvania, Inc.

Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
Forum Place, 1st Floor
Harrisburg, PA 17101
sgray@pa.gov

Amy E. Hirakis, Esquire
NiSource Corporate Services Co.
800 North Third Street, Suite 204
Harrisburg, PA 17102
ahirakis@nisource.com

Counsel for
Columbia Gas of Pennsylvania, Inc.

Darryl A. Lawrence, Esquire
Barret C. Sheridan, Esquire
Laura J. Antinucci, Esquire
Christy Appleby, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
DLawrence@paoca.org
BSheridan@paoca.org
LAntinucci@paoca.org
cappleby@paoca.org

Meagan B. Moore, Esquire
NiSource Corporate Services Co.
121 Champion Way, Suite 100
Canonsburg, PA 15317
mbmoore@nisource.com

Counsel for
Columbia Gas of Pennsylvania, Inc.

Erika L. McLain, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120
ermclain@pa.gov

Elizabeth R. Marx, Esquire
Ria M. Pereira, Esquire
John W. Sweet, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net

Counsel for CAUSE-PA Intervenor

Joseph L. Vullo, Esquire
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@bvrrlaw.com

Counsel for Community Action Association of Pennsylvania

Dr. Richard Collins
440 Monmouth Drive
Cranberry Township, PA 16066-5756
richardcollins@consolidated.net

Charis Mincavage, Esquire
Kenneth R. Stark, Esquire
McNees Wallace & Nurick LLC
100 Pine Street, P.O. Box 1166
Harrisburg, PA 17108
cmincavage@mcneeslaw.com
kstark@mcneeslaw.com

Counsel for
Columbia Industrial Intervenors

Ionut R. Ilie
255 McBath Street
State College, PA 16801
Ionut.John.Ilie@gmail.com

Bruce Matteo
118 New Galilee Road
Darlington, PA 16115
brucematteo@comcast.net

Robert D. Knecht Industrial Economics, Inc.
2067 Massachusetts Avenue
Cambridge, MA 02140
rdk@indecon.com

Consultant for OSBA

/s/ Whitney E. Snyder
Thomas J. Sniscak
Whitney E. Snyder

Dated this 16th day of October, 2020

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2020-3018835
	:	
Columbia Gas of Pennsylvania, Inc.	:	

MAIN BRIEF OF COMPLAINANT THE PENNSYLVANIA STATE UNIVERSITY

Thomas J. Sniscak, Attorney I.D. No. 33891
Whitney E. Snyder, Attorney I.D. No. 316625
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
Telephone: (717) 236-1300
Facsimile: (717) 236-4841
tjsniscak@hmslegal.com
wesnyder@hmslegal.com

Counsel for The Pennsylvania State University

Dated: October 16, 2020

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Administrative Decisions

Other Authorities

I. INTRODUCTION

The Complainant Pennsylvania State University (Penn State or PSU) is briefing one topic[1] in this proceeding – rate structure.[2] PSU was able to resolve concerns with Columbia Gas of Pennsylvania (Columbia or the Company) initially raised in PSU's complaint and testimony that was subsequently redacted before identification and entry into the record of the remainder of PSU's testimony. In short, PSU no longer opposes the Company's revenue requirement proposals in its rate increase filing, and supports its testimony on rate structure, including cost of service, revenue allocation in general, and specific to treatment of Customer Assistance Program ("CAP") funding and administrative costs, and rate design—all of which in this proceeding match cost to the cost-causer as opposed to those who would park those costs on ratepayers who are not causers and who are ineligible for the CAP program.

As the Commonwealth Court has held, cost of service is the "polestar" for allocating revenue and cannot be simply ignored.[3] *Lloyd* also held that cross-class subsidies may not be increased but should decrease over time. The Company's averaging of cost of service studies and resulting revenue allocation proposal while not doing that relative to subsidies large users provide, is a balanced middle-ground approach that acceptably weighs in PSU's opinion the interests of residential customers and industrial class customers such as PSU. While PSU

---

[1] According to the briefing outline approved by Your Honor rate structure will include the issue of which classes should fund Customer Assistance Programs.

[2] PSU has indicated N/A for issues in this brief that it is not addressing in accordance with the brief outline. PSU reserves its right to address in its Reply Brief any issues the parties may raise in their Main Briefs.

[3] *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 (Pa Cmwlth. 2006) (*Lloyd*); *see also* J. Cawley and N. Kennard, Rate Case Handbook, A Guide to Utility Ratemaking before the Pennsylvania Public Utility Commission (Pennsylvania Public Utility Commission 1983) (Cawley and Kennard) at 257–61; J. Cawley and N. Kennard, Rate Case Handbook, A Guide to Utility Ratemaking before the Pennsylvania Public Utility Commission (Pennsylvania Public Utility Commission 2018) (Cawley and Kennard) at 138-141.

witness Mr. Crist correctly advocates for use of the Company's Customer Demand cost of service study and resulting revenue allocation, PSU believes consistent with Mr. Crist's testimony that Your Honor and the Commission should adopt as a compromise position the Company's Average Study for cost of service and resulting revenue allocation and rate design. Adopting solely a Peak and Average methodology results in the residential rate class not paying for their fair share of distribution mainlines ("mains") and would increase cross-class subsidization.

Regarding allocation of universal service programs, here CAP and its funding and administrative costs, PSU supports the concept of universal service as a concept. However, allocating these costs to customers that are not eligible for the program, such as industrial class customers, runs afoul of Commonwealth Court precedent. In *Lloyd*, the Commonwealth Court discussed the mandate to eliminate cross-class subsidies:

> Because the flat percentage increase in transmission charges increases any previous discrimination in rates, and the Commission offers no explanation how discrimination in distribution and transmission rate structures are eventually going to be gradually alleviated, in effect, the Commission has determined that the principle of gradualism trumps all other ratemaking concerns—especially the polestar—cost of providing service.
>
> …
>
> Accordingly, we vacate the Commission's order regarding transmission and distribution rates and remand for the setting of non-discriminatory reasonable rates and rate structure for each service.[4]

Allocating costs for universal service programs to classes other than the residential class when those programs are available only to residential customers further increases subsidies from other classes to the residential class in violation of this holding.

[4] *Lloyd*, at 1020-21.

Further interpreting *Lloyd*, the Commonwealth Court explained that while there is not a statutory requirement that funding for special programs may only come from those that benefit from the program, "the lack of such a requirement does not mean that funding for special programs must come from those who do not benefit."[5] The court went on in *Met Ed* to discuss that there as in *Lloyd*, the customers paying for the programs did benefit from those programs because those benefits were available to the customers who were paying for them. That is not the case here regarding universal service program costs and non-residential classes. The evidence is clear that industrial class users do not benefit from the universal service program and thus applying cost of service principles, these costs cannot be allocated to any class other than the residential class. This is an issue that the Commission has stated must be determined based on the evidence of this case,[6] and that evidence shows there is no benefit to customers outside the residential class and thus these costs cannot be allocated to non-residential customers.

II. SUMMARY OF ARGUMENT

Cost of Service Methodology. Prior Commission decisions are distinguishable and do not mandate that any cost of service methodology be accepted here. Your Honor and the Commission must decide this issue based on the evidence of this case. As a compromise and concession as to the best cost of service methodology that PSU supported in its testimony, the Commission should adopt the Company's blended Average Study for cost of service and resulting revenue allocation and rate design. Adopting solely a myopic Peak and Average

---

[5] *Met-Ed Industrial Users Group et al v. Pa. P.U.C.*, 960 A.2d 189, 202 (Pa. Cmwlth. 2008) (*Met-Ed)*.

[6] "We are not making a final precedential decision regarding cost recovery in this docket. We are merely providing that the recovery of CAP costs in particular can be fully explored in utility rate cases henceforth. Decisions regarding cost recovery will remain the province of utility-specific proceedings." *2019 Amendments to Policy Statement on Customer Assistance Program*, Final Policy Statement and Order, Docket No. M-2019-3012599 (Order entered Nov. 5, 2019) (*CAP Policy Order*).

methodology advocated by those who solely promote residential only interests results in the residential rate class not paying for their fair share of assets and would increase cross-class subsidization by larger users.

Allocation of Universal Service Program Costs. PSU supports universal service programs. However, the costs of the Company's universal service program cannot be allocated to classes other than the residential class because no other class is eligible for or benefits from universal service programs. This violates the "polestar" of ratemaking that costs must be assigned to the classes of ratepayers who cause and benefit from such costs. Pursuant to *Lloyd*, subsidies to the residential class cannot be increased. Moreover, allocation of universal service program costs to PSU is detrimental where, as here, the COVID-19 pandemic is causing hardship to PSU and allocating such costs to PSU adds to this hardship.

III. OVERALL POSITION ON RATE INCREASE

PSU is not taking a position on the amount of increase the Company requested or the specifics thereof. PSU does not oppose the Company's proposals in its rate increase filing. As to rate structure and rate design, PSU supports the Company's position in support of achieving a middle ground of competing positions.

IV. RATE BASE - N/A

V. REVENUES - N/A

VI. EXPENSES - N/A

VII. TAXES - N/A

VIII. RATE OF RETURN - N/A

IX. MISCELLANEOUS ISSUE - N/A

X. RATE STRUCTURE

A. Introduction

The evidence shows that the Company's Average Study should be adopted as the most balanced and fair approach to allocation of costs. To adopt a Peak and Average study alone causes other rate classes to substantially subsidize residential main costs in violation of *Lloyd*. Prior Commission decisions regarding cost of service study methodology are distinguishable and do not mandate a result here. This case must be decided on the evidence and facts of record.

The evidence here also shows that universal service program costs cannot be allocated to rate classes other than residential. To do otherwise violates the "polestar" of ratemaking – cost of service, and further increases subsidies to the residential class in violation of *Lloyd.*

B. Cost of Service

1. <u>The Evidence Shows the Average Study Should Be Adopted</u>

The Company provided three cost of service studies with its rate increase filing: 1) the Customer-Demand study; 2) the Peak and Average Study; and 3) the Average Study, which is an equal weighting of the first two studies.[7] The Average Study is a balanced and fair cost of service study on which to base revenue allocation because it equally weighs the Customer-Demand Study, which generally favors industrial class customers, and the Peak and Average Study, which generally favors the residential class.[8] PSU Witness Mr. Crist testified that despite testimony by OCA and I&E dismissing the Customer-Demand Study, the customer-demand

[7] Columbia St. No. 11, Direct Testimony of C. Notestone at 2-3.

[8] Columbia St. No. 11, Direct Testimony of C. Notestone at 3:5-11.

methodology is a valid, NARUC recognized methodology, and cannot be dismissed or ignored.[9]

As Company witness Mr. Notestone testified:

> It is broadly accepted that a single allocated cost of service study cannot and should not be relied upon to determine the exact cost to serve each class of customers. The National Association of Regulatory Utility Commissioners, in its June 1989 Gas Distribution Rate Design Manual, stated that "there is no one correct cost of service, but rather a range of reasonable alternatives." Clearly, if Columbia or any other party to this case were to simply choose a single study as the basis for allocating costs, doing so would produce an outcome that unfairly favors or disfavors a specific class of customers.
>
> Columbia submitted three studies because of the very real understanding that no single study by itself can give an accurate determination of rate class cost of service to be used as a basis of revenue responsibility for each rate class.[10]

The core issue driving the dispute between cost of service methodologies is the treatment of main costs. Mains and services account for approximately 87% of the Company's gross plan investment and approximately 56% of O&M expenses.[11] Thus, allocation of these items significantly influences the outcome of the cost of service studies.[12] "With all three studies, the allocation of costs is essentially the same, with the exception of the allocation of mains."[13] The dispute centers on whether the costs of these mains should be allocated based on the number of customers and the peak day demand or the peak day design and the average throughput or a mix of the two.

> The Customer/Demand Study weights the allocation of mains using a factor based on the number of customers (Customer) and

---

[9] PSU St. No. 1-R, Direct Testimony of J. Crist at 6:6-9:9

[10] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 2:13-3:3.

[11] Columbia St. No. 11, Direct Testimony of C. Notestone at 13:20-14:5.

[12] Columbia St. No. 11, Direct Testimony of C. Notestone at 13:20-14:5.

[13] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 3:7-8.

> the company's peak day design (Demand). This method recognizes the customer number component of mains.
> In the Peak & Average Study, the allocation of mains uses a factor weighting 50% to the Company's peak day design (Peak), and 50% to the Company's throughput (Average).
> As stated above, the Average Study gives equal weight to the Customer/Demand and the Peak & Average methods.[14]

The Company used a detailed, specific, and logical approach to allocation of these costs within its cost of service studies, considering different types of mains, the numbers of and types of customers that use them and the demands of those customers to allocate costs for each different type of main based on these factors "in order to allocate the cost of those systems to the customers who used them."[15]

> The primary purpose of assigning distribution mains into separate categories is to develop a mains cost allocation that is more consistent with cost incurrence. Because of the Company's Graphical Information System ("GIS"), the Company has the capability to identify which premises are served off which pipe segments, the operating pressures of those pipe segments, the size of pipe, and the pipe material (ie. steel, plastic). This further refinement allows Columbia to more accurately identify the specific mains being used to serve specific customers and, therefore, more accurately assign mains when determining the revenue responsibility for each rate class.[16]

OCA and its witness Mr. Mierzwa and I&E and its witness Mr. Cline take an extreme position that completely rejects the Company's Customer-Demand methodology, thus failing to take into account the number of customers for which a main must be sized. OCA Witness Mierzwa sets forth its own Peak and Average methodology that places no weight on the number of customers a main serves and rejects the Company's separation of various mains for allocation

---

[14] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 3:9-16.

[15] Columbia St. No. 11, Direct Testimony of C. Notestone at 5:8-14:5.

[16] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 24:10-18.

purposes.[17] OCA's and I&E's positions ignore the facts of Columbia's rural service territory and how mains must be sized to meet the demands of all customers.[18] It results in assigning costs of mains incurred for the residential class to other classes, increasing cross-class subsidization contrary to *Lloyd supra*.

First, regarding the appropriateness and necessity of allocating mains based partially on the number of customers, PSU Witness Mr. Crist explained:

> **WHY SHOULD MAINS BE ALLOCATED BASED ON THE NUMBER OF CUSTOMERS?**
>
> A. Natural gas pipelines are installed to provide service to customers. And unless all the customers are living in one massive apartment building the distribution pipelines need to be extended across a company's distribution service territory. When more customers are added, more pipelines must be extended. It is a clear causal relationship that establishes why the customer component of the Customer-Demand ACOS is necessary. Mr. Mierzwa provided an example (*id.*, 11: 6-17) in support of the principle that residential customers in urban areas do not need pipes extended to them as much as industrial customers need piping extended to them, but his example actually illustrates the point that I am making as it specifically pertains to the service territory of Columbia Gas. Pennsylvania's two largest cities, Philadelphia and Pittsburgh, are served by other local distribution utilities. The Columbia System serves the suburbs of Pittsburgh along with numerous rural regions in Pennsylvania. Thus, the density of customers served by Columbia is less dense than if it served the major urban cities in the Commonwealth. This illustrates the reason that allocation of the cost of distribution mains is done on a customer basis. Customers in the less dense areas require more feet of natural gas distribution mains piping to reach them than customers situated in highly dense urban areas. This refutes the example provided by Mr. Mierzwa.
>
> **Q. WHY DOES MR. MIERZWA CLAIM THAT BONBRIGHT'S BOOK RECOMMENDS THAT GAS MAINS NOT BE CLASSIFIED AS CUSTOMER COSTS?**
>
> A. On page 14 of his direct testimony Mr. Mierzwa adds emphasis to a citation from Bonbright's, *Principles of Public*

[17] PSU St. No. 1-R, Direct Testimony of J. Crist at 6:12-13:9.

[18] PSU St. No. 1-R, Direct Testimony of J. Crist at 6:12-13:9.

Utility Rates to support his claim. However, on page 13 of Mr. Mierzwa's testimony it is clear that Professor Bonbright was "utilizing an example from the electric industry." (*id*., 13:6). Mr. Mierzwa failed to explain how the Bonbright example pertains to the gas mains of the Columbia system. The emphasis added says there is a very weak correlation between the area (or the mileage) of a distribution system and the number of customers served by this system. However, in the case of Columbia, the capital costs of its distribution system are for extensions to add additional customers or the accelerated pipe replacement program underway to replace older pipe with new plastic gas piping. Both of these functions clearly are customer-driven and that supports allocating a portion of the distribution system costs on a customer basis.

Q. WHAT INDUSTRY REFERENCE STANDARD DO YOU RELY UPON?

A. For this issue the Gas Distribution Rate Design Manual, prepared by the National Association of Regulatory Utility Commissioners ("NARUC"), provides some clarity. Consulting pages 22-23 states:

> One argument for inclusion of distribution related items in the customer cost classification is the "zero or minimum size main theory." This theory assumes that there is a zero or minimum size main necessary to connect the customer to the system and thus affords the customer an opportunity to take service if he so desires. Under the minimum size main theory, all distribution mains are priced out at the historic unit cost of the smallest main installed in the system and assigned as customer costs. The remaining book cost of distribution mains is assigned to demand. The zero-inch main method would allocate the cost of a theoretical main of zero-inch diameter to the customer function, and allocate the remaining costs associated with mains to demand.

Of the two choices, zero or minimum size, Mr. Notestone (Columbia Statement No. 11) used the minimum size of two-inch mains in the Company's Customer-Demand ACOS. I would agree with his analysis. It is a valid study and should be used, and not ignored as Mr. Mierzwa wishes.[19]

---

[19] PSU St. No. 1-R, Rebuttal Testimony of J. Crist at 7:4-9:9.

Company witness Mr. Notestone also rebuts Mr. Mierzwa's position. Importantly, he states:

> [T]he Average Study that Columbia ultimately uses as a basis of revenue allocation to the rate classes only allocates 25% of low pressure mains, 29% of regulated pressure mains, and 16% of remaining regulated pressure mains based on number of customers. On the other hand, Mr. Mierzwa's Peak & Average study allocates 50% of 12 mains cost based on throughput and 50% on design day.
> …
> When it comes to the assignment of mains cost for the 10 largest customers, Mr. Mierzwa makes a point that the 10 largest customers would receive an under allocation of cost if only number of customers were used as a basis of allocation. In fact, Columbia effectively only uses a weighting of 16% to 29% of the allocation of mains costs based on number of customers. However, clearly Mr. Mierzwa's Peak & Average study grossly over allocates mains costs by effectively assigning the cost of 360,128 feet (more than 68 miles) of pipe on average to 9 of the 10 largest customers.[20]

Second, regarding the necessity of considering how Columbia's mains must be designed to serve all customer demands during all periods of time, not just average demands, to determine the demand factor (ie. peak demand versus average demand), PSU Witness Mr. Crist explained that OCA Witness Mierzwa's position that piping was designed to meet average demand is wrong. As PSU Witness Mr. Crist explained:

> The fact is that the distribution system must be designed to deliver gas during a peak day. … Once the pipes are sized to carry the peak day load then clearly
> enough gas will flow through those pipes the rest of the year to meet the remaining need of the customers, however this provides no justification for leaping to the conclusion that
> the piping system was designed to meet an average demand. Mr. Mierzwa is just plain wrong.
> On pages 18 and 19, Mr. Mierzwa gives his thoughts on the company's financial evaluation process in place for main line extension. His observation that the Company's base rate revenues are primarily collected on a volumetric basis is not a reason to believe that the peak demands are not used as the engineering design basis for gas mains.
> …

[20] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 9:8-10:7.

> On page 21, Mr. Mierzwa opines that many costs associated with the distribution delivery system do not depend on pipe sizes. (id., 22:23-25). While that may be true the majority of the cost of the gas mains clearly depends on the peak design. Mr. Mierzwa uses an example that discusses the economies of scale of expanding the diameter of pipe but his logic is flawed. Simply because there is an efficiency involved in the economy of scale of larger sized pipes that produces a cost efficiency in the delivery capability does not undermine the basic principle that the peak demand is the dominant factor in the design of the distribution system.[21]

In conclusion, Mr. Notestone explained the fairest way to allocate costs that most accurately reflects how those costs are incurred is the Average Study:

> [T]he Peak & Average Study is based on the utilization of the distribution mains system. Because 50% of the Peak & Average Study is based on throughput, it does not reflect the manner in which the Company actually incurs costs to provide service. The Company's Customer/Demand Study does reflect the manner in which the Company actually incurs costs to provide service, commonly known as cost causation, and that is why the Company applies equal weight to both the Peak & Average and Customer/Demand Studies in the determination of rate class revenue requirement.[22]

2. <u>The Commission Must Decide This Case Based On The Evidence Here, Not Prior Distinguishable Decisions</u>

The Commission is not bound by any prior decision, including those that are nearly thirty years old under different times and circumstances on the choice of cost of service study methodology, particularly as such decisions are distinguishable and involved other utilities that have differing circumstances. The Commission must decide each case based on the facts and evidence before it. The Commission has never expressly rejected the Customer Demand or Average Study methodologies. Mr. Notestone accurately distinguishes the cases OCA and/or

[21] PSU St. No. 1-R, Rebuttal Testimony of J. Crist at 9:18-10:13.

[22] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 19:4-11.

I&E raised to support the proposition that Peak and Average should be used: *National Fuel Gas Distribution Corp.*, Docket Nos. R-00942991 et al, Recommended Decision (entered Oct. 7, 1994) (*NFGD 1994*); *National Fuel Gas Distribution Corp.*, Docket Nos. R-901670 et al, Opinion and Order (entered Dec. 20, 1990) (*NFGD 1990*); *Peoples Natural Gas Co.*, Docket Nos. R-850270 et al, Opinion and Order (entered Oct. 30, 1986) (*PNGC*); *PPL Gas Utilities*, Docket Nos. R-00061398 et al, Opinion and Order (entered Feb. 8, 2007) (*PPL*).[23] In particular, I&E's approach to rate structure in this case is particularly unusual given its statutory charge is to do what is best for all customers and here it shows preference for methods biased for residential customers.

First, in *NGFD 1994*, the Commission's Order demonstrates the only two cost of service studies proposed in that case were both Peak and Average.[24] Thus, the Commission clearly did not decide that Peak and Average must be used as the methodology. The Commission went on to cite *NFGD 1990* and *PNGC* to reject certain adjustments to the study because it "suffered from the same weaknesses that we have previously found required the rejection of other alternatives to a Peak and Average cost of service study."[25]

However, both *NFGD 1990* and *PNGC* are also distinguishable. In *NFGD 1990* the Commission rejected the alternative methodology utilizing a customer component for allocation of main costs based on the manner in which the method was applied (the zero intercept method)

[23] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 19:12-24:6.

[24] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 19:17-20:11 (citing and quoting *NFGD 1994* at 208).

[25] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 20:12-17 (quoting *NFGD 1994* at 215).

that cast doubt upon the validity of the results.[26] The Commission never expressly rejected a methodology such as Customer Demand that utilizes a customer component, just the way it was applied there using the zero intercept method.[27] No party has cast doubts here on the manner in which the Customer Demand or Average Study was conducted or the validity of the results and Columbia has not used the zero-intercept method here.[28]

In *PNGC*, which was decided in 1986, the Commission chose a Peak and Average study "absent an alternative to the cost of service studies presented."[29] An Average Study, like Columbia proposes and PSU supports here, was not proposed there.[30] Again, this case is distinguishable and does not bind the Commission here.

Next, *PPL*, which I&E cites for the proposition that "the Commission has rejected minimum and zero-intercept system methods as inconsistent with causation," is also distinguishable.[31] There, Administrative Law Judge Jones was relying on both *NFGD 1994* and *NFGD 1990*, and she also rejected the methodology there because of the statistical basis of the zero-intercept model that OSBA had proposed.[32] This is a combination of what happened in both *NFGD 1990* (rejection of zero intercept method based on accuracy of results) and *PNGC*

---

[26] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 20:18-21:31 (citing and quoting *NFGD 1990* at 185 and 191).

[27] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 20:18-21:31 (citing and quoting *NFGD 1990* at 185 and 191).

[28] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 21:23-31.

[29] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 22:1-17 (citing and quoting *PNGC* at 22).

[30] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 22:1-17 (citing and quoting *PNGC* at 22).

[31] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 22:18-24:6.

[32] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 22:18-24:6 (citing and quoting *PPL* at 70).

choice of Peak & Average "absent an alternative to the cost of service studies presented."[33] This is distinguishable for the same reasons as *NFGD 1990* (here, zero intercept method not used and no doubts raised as to accuracy/validity of results) and *PNGC* (here, Average Study is alternative proposed).[34]

In sum, there is no case that precludes the Commission from adopting the Average Study proposed here and the evidence shows it is the fairest and most balanced method.

C. Revenue Allocation

1. <u>Proposed Revenue Allocation and Alternatives</u>

PSU supports the Company's proposed revenue allocation based on the Average Study, which equally balances the Customer Demand and Peak and Average studies. PSU is opposed to the adjustments OSBA Witness Knecht proposes to this allocation. As PSU Witness Mr. Crist explained:

> **Q. DO YOU AGREE WITH MR. KNECHT'S REVENUE ALLOCATION?**
> A. No. Mr. Knecht makes several adjustments to determine his allocation and one of those adjustments is a change of the weighting of the two studies (Customer-Demand and Peak & Average). Whereas the Company weighted the two studies equally to determine its average ACOS, Mr. Knecht weights them 25/75, Customer-Demand/Peak & Average. The point of the Company's using two studies is to determine boundaries or extremes, and then average. Mr. Knecht determines boundaries but then skews the average by the use of unequal weighting.[35]

2. <u>Flex Customers -N/A</u>

[33] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 22:18-24:6 (citing *PPL* at 70).

[34] Columbia St. No. 11-R, Rebuttal Testimony of C. Notestone at 22:18-24:6.

[35] PSU St. No. 1-R, Rebuttal Testimony of J. Crist at 15:11-18.

3. **Allocation of Universal Service Costs**

The Company is correct in its proposal to assign costs for its universal service program to the residential class, which is the only class that obtains the benefits of this program. Assigning these costs to other classes violates cost causation principles that are the "polestar" of ratemaking. In *Lloyd,* the Commonwealth Court discussed the mandate to eliminate cross-class subsidies:

> Because the flat percentage increase in transmission charges increases any previous discrimination in rates, and the Commission offers no explanation how discrimination in distribution and transmission rate structures are eventually going to be gradually alleviated, in effect, the Commission has determined that the principle of gradualism trumps all other ratemaking concerns—especially the polestar—cost of providing service.
>
> …
>
> Accordingly, we vacate the Commission's order regarding transmission and distribution rates and remand for the setting of non-discriminatory reasonable rates and rate structure for each service.[36]

Assigning costs to ratepayers that do not benefit from those programs increases subsidies and violates this principle. As OSBA Witness Knecht adroitly stated on this issue: "It is the long-standing policy of the Pennsylvania Public Utility Commission that the costs for these programs be allocated only to residential rate classes."[37] There is no reason to stray from that long-standing policy here.

The Commission's policy statement at 69.265(1) is not determinant here:

> Consistent with the discussion above, the Commission finds it appropriate to consider recovery of the costs of CAP costs from all ratepayer classes. Utilities and stakeholders are advised to be prepared to address CAP cost recovery in utility-specific rate cases consistent with the understanding that the Commission will no

[36] *Lloyd*, at 1020-21.

[37] OSBA St. No. 1-R, Rebuttal Testimony of Robert D. Knecht at 2:24-26.

> longer routinely exempt non-residential classes from universal service obligations.[38]

The footnotes associated with this text make this clear:

> We are not making a final precedential decision regarding cost recovery in this docket. We are merely providing that the recovery of CAP costs in particular can be fully explored in utility rate cases henceforth. Decisions regarding cost recovery will remain the province of utility-specific proceedings.
>
> A rate case is the appropriate forum to determine the cost allocation for each ratepayer class. In its 1992 Report, BCS recommended the cost allocations for CAP across ratepayers should depend on a number of factors, including the amount of CAP funding needed, the relative ability of each class (residential, commercial, and industrial) to bear additional costs, the size (number of customers or volume of sales) of the rate classes, and the price sensitivity of industrial customers to minimize anti-competitive impacts. *Final Report on The Investigation of Uncollectible Balances* at 158.[39]

While the Commission has indicated potential change in its long-standing policy, as OSBA Witness Knecht stated this change was not based on identifiable changes in regulatory philosophy or cost causation principles:

> The Commission's primary motivation for considering a change in the cost recovery method was not based on any identifiable change in regulatory philosophy or cost causation principles. The rationale for considering a change to the policy appears to be that the low-income assistance programs have become unaffordable to those residential customers who are ineligible or who otherwise do not participate in the programs.[40]

Moreover, the decision in *Met-Ed* is not dispositive here and does not mean that ratepayers who do not benefit from a program can be assigned those costs without violating cost causation principles. As the court stated:

---

[38] *CAP Policy Order* at 97.

[39] *Id.* at nn. 150-151.

[40] OSBA St. No. 1-R, Rebuttal Testimony of Robert D. Knecht at 3:10-15.

> the lack of such a requirement does not mean that funding for special programs must come from those who do not benefit. In fact, in *Lloyd*, this court pointed out that, according to the credible evidence, SEF programs do benefit distribution service. Therefore, SEF programs are funded by those who benefit from them.[41]

The court went on to find in *Met-Ed* that the Commission properly limited recovery of universal service costs from all members of the residential class.[42] The benefit to all residential customers for universal service programs is clear – if a residential customer requires the program it is there for them, even if they are not currently utilizing the program. Not so when applied to other rate classes as various parties propose here.

The evidence here shows only the residential rate class benefits from universal service programs and imposing these costs on users such as PSU, who is also suffering losses from the COVID-19 pandemic[43], will have negative impacts.

Regarding benefits, as PSU Witness Mr. Crist testified:

> **Q. WHAT DIRECT BENEFITS ACCRUE TO NON-RESIDENTIAL CLASSES FROM THE EXISTENCE OF UNIVERSAL SERVICE PROGRAMS?**
> A. None. Mr. Colton and Mr. Miller attempt to justify such cost shifting to non-residential classes by opining that such programs provide some indirect societal benefits. Notably they have no quantifiable calculation of this alleged benefit—the truth is they cannot and have not. Even if there were some alleged benefits they would be insignificant compared to the impact of assigning significant costs to commercial and industrial customers particularly when facing the challenges to business or operations due to COVID-19. Such topics and considerations are appropriately debated by the Legislature.[44]

---

[41] *Met-Ed* at 202-203.

[42] *Id.*

[43] PSU St. No. 1-R, Rebuttal Testimony of J. Crist at 5:5-6:8; PSU St. No. 1-SR, Surrebuttal Testimony of J. Crist at 17:15-19:7.

[44] PSU St. No. 1-R, Rebuttal Testimony of J. Crist at 18:11-19.

Q. WHAT CUSTOMER CLASS MAY RECEIVE UNIVERSAL SERVICE BENEFITS?

A. Only Residential customers are eligible to receive universal service benefits. Neither Mr. Colton or Mr. Miller propose to expand programs so that commercial or industrial customers might be eligible for some type of benefit. Yet, they want other non-residential classes to openly subsidize these benefits. That is unfair and as unreasonable. I am aware that Section 1304 of the Public Utility Code prohibits any unreasonable preference or advantage or subject any customer to any unreasonable prejudice or disadvantage. During the transition to a more competitive natural gas marketplace protections were put into place to address concerns of discrimination and subsidization. Section 2203(5) of Title 66, Chapter 22, Natural Gas Competition, states: "The commission shall require that restructuring of the natural gas utility industry be implemented in a manner that does not unreasonably discriminate against one customer class for the benefit of another." Assigning residential universal service program costs to commercial and industrial classes would do just that.[45]

Q. ARE UNIVERSAL SERVICES PROGRAMS A PUBLIC BENEFIT?

A. No. They are a direct benefit to residential customers. Mr. Colton and Mr. Miller worked hard in their testimony to construct a logic trail to somehow claim that these programs that enable residential customers to pay their Columbia gas bill are a benefit to commercial and industrial customers. They have done no qualitative analysis to prove their points; rather they offer generalities and assume someone else can pay for what they want. Mr. Colton and Mr. Miller portray the recipients of the direct benefits of universal service programs, without any qualitative analysis, as low-income, or retired, without sufficient means to pay their Columbia gas bill in absence of such programs, then attempt to explain that such programs presumably benefit businesses and the community indirectly by providing such support.

They ignore and did no research or vetting into the truth that businesses and industrial customers and universities are all challenged financially, as there are not unlimited financial resources. If the broader universe of commercial and industrial customers is considered then one must evaluate what is the best way to spend an incremental dollar? Should it be spent on a universal service program to pay a residential customer's bill from

[45] PSU St. No. 1-R, Rebuttal Testimony of J. Crist at 19:15-20:6.

> Columbia, or should it be spent on energy conservation and efficiency programs for commercial and industrial customers or toward economic development programs undertaken by government and utilities that have proven their worth by obtaining multiple financial benefits for the dollars invested in them? These are difficult questions for sure, but any movement to apply costs of the residential universal service programs to non-residential classes must require a thorough evaluation of all opportunities across all customer classes to determine the best bang for the buck of where incremental program dollars should be deployed for optimal benefits to the public.[46]

Regarding the Commission's reasoning of the amount of residential bills attributable to universal service programs, this cannot be considered in a vacuum with disregard to the fact that residential gas prices have decreased over the past 13 years and that the Company's current rate increase will hit the large commercial and industrial class customers much greater than the residential customers. As PSU Witness Mr. Crist testified:

> **Q. HAVE RESIDENTIAL GAS PRICES INCREASED SIGNIFICANTLY?**
> A. No. There has been no significantly large increase to the residential customer class over the past 13 years, in fact, just the opposite is true. Wellhead pricing of natural gas has been down over the past decade, and that impacts the delivered price to residential consumers. The graph (Figure PSU-1) of U.S. Price of Natural Gas Delivered to Residential Consumers, from the Energy Information Administration shows that point quite clearly, examining the period of 2006 to 2019.
>
> Year to date wellhead prices in 2020 have been exceptionally low. If Columbia is granted the increase as requested it will have the effect of increasing prices to all customer classes including commercial and industrial, but such increases will hit the large commercial and industrial class customers much greater than the residential customers. Data in Columbia's filed Exhibit 103, Schedule 8 show the requested increase for residential customers is 23.7% yet for large customers on rate LDS is 27.21%. Mr. Colton and Mr. Miller opine that the non-residential classes are somehow better off economically than the residential class but that is simply not true. Those non-residential class customers are not deep

[46] PSU St. No. 1-R, Rebuttal Testimony of J. Crist at 22:14-23:21.

> pockets that can absorb new costs for residential programs that do not benefit them.[47]

Regarding flex customers specifically, Mr. Crist testified it would be wholly inappropriate to assign universal service costs to these customers:

> **Q. SHOULD UNIVERSAL SERVICE PROGRAM COSTS BE ALLOCATED TO FLEX CUSTOMERS?**
> A. No. In the event the Commission orders such costs to be allocated to non-residential customers those customers receiving service under a flex rate should not be allocated any costs. It has long been understood that flex customers enter into negotiated contractual agreements with Columbia less than the full tariff rate but still at the maximum amount that Columbia has determined is necessary to retain the patronage of the customer, and that adding any additional cost to the flex rate would be a violation of the contract between Columbia and the flex customer. Such unscrupulous actions of forcing additional costs onto a contractual agreement between Columbia and a flex customer without that customer's consent would violate the contract. Flex customers, faced with such an unexpected cost addition would reconsider its other competitive options and then exit the Columbia distribution system as a customer. That would be a very poor policy for the Commission to adopt and would encourage competitively-situated customers to flee the public utility system.[48]

D. Rate Design

1. **Residential Rate Design - N/A**
2. **Small C&I Customer Rate Design - N/A**
3. **Large C&I Customer Rate Design**

PSU supports the Company's proposal set forth in the Company's rate increase filing and supporting testimony.

4. **Gas Procurement Charge Rider - N/A**

E. Bill Impacts - N/A

---

[47] PSU St. No. 1-R, Rebuttal Testimony of J. Crist at 21:10-22:12.

[48] PSU St. No. 1-R, Rebuttal Testimony of J. Crist at 28:4-18.

XI. CONCLUSION

As detailed herein, Your Honor and the Commission should use Columbia's Average Study and should not allocate universal service costs to customers outside the residential rate class.

XII. TESTIMONY AND EXHIBIT SCHEDULE

Pursuant to the September 25, 2020 Post-Hearing Order, The Pennsylvania State University provides the following schedule of when its testimony and exhibits were identified and admitted into the record:

PSU St. No. 1 – Direct Testimony of James Crist – Identified and Admitted on September 24, 2020

PSU Exhibit No. D-1 – CV of James Crist, 7 pages – Identified and Admitted on September 24, 2020

PSU St. No. 1-R – Rebuttal Testimony of James Crist, 30 Pages – Identified and Admitted on September 24, 2020

PSU St. No. 1-SR – Surrebuttal Testimony of James Crist, 24 Pages – Identified and Admitted on September 24, 2020

Respectfully submitted,

/s/ Thomas J. Sniscak
Thomas J. Sniscak, Attorney I.D. No. 33891
Whitney E. Snyder, Attorney I.D. No. 316625
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
Telephone: (717) 236-1300
Facsimile: (717) 236-4841
tjsniscak@hmslegal.com
wesnyder@hmslegal.com

Counsel for The Pennsylvania State University

Dated: October 16, 2020