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October 30, 2020

*Via Electronic Filing*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> 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 REPLY BRIEF**

Dear Secretary Chiavetta:

Enclosed please find The Pennsylvania State University's Reply 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](mailto:kdunderdal@pa.gov))  
Per Certificate of Service

## **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).

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/s/ Whitney E. Snyder  
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Dated this 30<sup>th</sup> day of October, 2020



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## I. INTRODUCTION

The Complainant, The Pennsylvania State University (Penn State or PSU), provides this Reply Brief to address two issues: Cost of Service Methodology and Allocation of Universal Service Costs.

PSU's position on both Cost of Service and Allocation of Universal Service Costs rely on the "polestar" of ratemaking – assigning costs to those who benefit from the incurrence of the costs and avoiding unreasonable discrimination in rates.<sup>1</sup> The Company's proposal on both of these issues is the most fair and reasonable outcome. Columbia Gas of Pennsylvania, Inc. (Columbia or the Company), the Columbia Industrial Intervenors (CII) and PSU all agree on these points. PSU detailed its arguments in support of these concepts in its Main Brief and will incorporate them by reference instead of repeating them herein.

## II. SUMMARY OF REPLY ARGUMENT

**Cost of Service Methodology.** The Office of Consumer Advocate (OCA) and the Bureau of Investigation and Enforcement (I&E) both take the incorrect position that solely a Peak and Average cost of service study (Peak and Average Study) should be used. Their positions are incorrect because the Peak and Average Study does not factor in an important customer component. Without the customer component, the Peak and Average Study does not fully account for costs the Company incurs to serve all customers. Adopting this methodology would result in unreasonable discrimination in rates and increased subsidization to the residential class in violation of *Lloyd*.

**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

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<sup>1</sup> *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010 (Pa Cmwlth. 2006) (*Lloyd*).

classes other than the residential class because no other class is eligible for or benefits from universal service programs. The Company, the Office of Small Business Advocate (OSBA), CII, and PSU all agree on this point. I&E takes no position. Pursuant to *Lloyd*, subsidies to the residential class cannot be increased. OCA and CAUSE's position to the contrary runs afoul of *Lloyd* and relies upon the false premise that other rate classes benefit from universal service programs. OCA and CAUSE have not shown any direct benefits but rather substitute a generalization that the alleged indirect societal benefits of universal service programs outweigh the detriments of imposing universal service costs on commercial and industrial customers.

### **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 has submitted no testimony of record regarding the Company's proposals in its rate increase filing. As to rate structure and rate design, PSU supports the Company's balanced position in support of achieving a middle ground of competing positions. This is particularly important as small businesses and large users all have felt the adverse financial impacts of Covid-19. Now is a bad time to depart from the Company's balanced and fair position on rate structure and rate design.

### **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**

PSU, the Company, and CII all detailed in their Main Briefs why the Company's Average Study should be adopted which uses both methods to reflect all relevant and fair factors. PSU MB at 5-14, Columbia MB at 127-136, CII MB at 11-15. The Average Study is an equal weighting between the Peak and Average Study method, which favors residential customers by ignoring demand factors fundamental to rate setting, and the Customer Demand Study method, which emphasizes the more steady demand factors of larger customers. This is the most reasonable and fair approach that best avoids discrimination in rates. I&E and OCA's position utilizing solely a Peak and Average Study should be rejected.

**B. Cost of Service**

As detailed in PSU's Main Brief, the evidence shows Company's Average Study should be adopted and there is no precedent to the contrary. PSU MB at 5-14. The Company and CII agree. Columbia MB at 127-136, CII MB at 9-15. The Average Study most fairly balances the interests of all customers, while utilizing solely a Peak and Average study, as OCA & I&E propose favors the residential class and adds unreasonable discrimination in rates, just like utilizing solely the Customer Demand study would favor businesses over residential customers. The Average Study is the best way for the Commission to resolve the bias of each method.

OSBA recognizes that the COSS should be somewhere between the Customer Demand Study and the Peak and Average Study, but instead of giving these two studies equal weight, OSBA would weight them 25% and 75% respectively. As PSU Witness Mr. Crist explained:

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.<sup>2</sup>

OCA and I&E's advocacy for sole use of a Peak and Average should be rejected for the reasons set forth in PSU, Columbia, and CII's Main Briefs. PSU MB at 7-11, Columbia MB at 127-136, CII Main Brief at 11-15. The Peak and Average methodology does not include a customer component but including a customer component is necessary because without it, all of the costs the Company incurs to provide service are not reflected. *See e.g.*, Columbia MB at 131-135, PSU MB at 8-11. Various authorities recognize that a customer component should be included, and OCA and I&E's rejection of this component relies on faulty assumptions. *See e.g.*, Columbia MB at 132-133, PSU MB at 9-10. The Peak and Average study should not be the only study relied upon. To do so is contrary to basic principles of cost causation and the Commission has previously rejected that approach.<sup>3</sup> Mr. Crist provided significant evidence demonstrating the validity of using the Customer Demand COSS if one study must be used but agreed that the Company's method of producing the Average Study was a fair and reasonable method to balance disparate views.

OCA takes the even more severe position that even the Company's Peak and Average Study is "seriously flawed." However, even I&E who advocates for use of the Company's Peak and Average Study, does not agree with this. I&E MB at 92-93. OCA's Peak and Average Study should not be adopted because it results in unreasonable discrimination in rates as set forth in the Main Briefs. PSU MB at 7-8, Columbia MB at 133, CII MB at 14-15. Using the Company's

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<sup>2</sup> PSU St. No. 1-R, Rebuttal Testimony of J. Crist at 15:15-18.

<sup>3</sup> *See Pa. P.U.C. v. PPL Electric Utilities Corp.*, Docket No. R-2012-2290597, at 113 (Order entered December 28, 2012) (recognizing that a proper COSS recognizes both a customer component and a peak demand component of distribution plant) (citing *Pa. P.U.C. v. PPL Electric Utilities Corp.*, Docket No. R-2010-2161694, at 46 (Order entered December 21, 2010)).

proposed Average Study results in the Residential class receiving the lowest proposed base revenue increase of 23.70% and the LDS class receiving the highest proposed base revenue increase of 27.21% (Company Exhibit No. 103, Schedule No. 8, Page 1 of 9). Skewing the revenue increase even more to burden the LDS class will result in significant discrimination.

As detailed in PSU's Main Brief, no Commission decision mandates that a Peak and Average Study must be utilized. PSU MB at 11-14. I&E argues in support of its position that the Commission in the *NFGD 1994*<sup>4</sup> case did not reject the Peak and Average Study so therefore this is the study the Commission accepts. I&E MB at 89. This completely ignores the fact that the Commission had before it only two different Peak and Average Studies – there were no alternative methodologies before it. PSU MB at 12-13. This case does not serve as an endorsement of the Peak and Average methodology or a prohibition on considering other methodologies.

### **C. Revenue Allocation**

- 1. Proposed Revenue Allocation and Alternatives – N/A**
- 2. Flex Customers - N/A**
- 3. Allocation of Universal Service Costs**

PSU, the Company, OSBA, and CII all agree that Universal Service Costs should not be assigned to customers outside the residential class. PSU MB at 15-20, Columbia MB at 147-148, OSBA MB at 20-21, CII MB at 17-20. I&E takes no position. I&E MB at 99. OCA and CAUSE disagree. Their arguments are flawed for two reasons. First, it relies on a false premise – that other rate classes benefit from universal service programs. Second, as detailed in PSU's Main

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<sup>4</sup> *National Fuel Gas Distribution Corp.*, Docket Nos. R-00942991 et al, Recommended Decision (entered Oct. 7, 1994) (*NFGD 1994*).

Brief, allocating these costs to other rate classes results in increased subsidization of the residential class and unreasonable discrimination in rates, contrary to *Lloyd* and the Natural Gas and Competition Act. 66 Pa. C.S. § 2203(5).

As Columbia stated:

Only Residential customers are eligible to participate in USP. These programs were created to reduce Residential customer arrearages and, in turn, reduce the costs that are incurred by Residential ratepayers as a result of arrearages and collections. The Residential class is the class that benefits from the reduction in such arrearages and collection costs and should be the customer class that bears the costs of these programs. C&I customers do not cause the Company to incur any costs in relation to Residential customer arrearages and do not receive any reduction in costs as a result of reduced customer arrearages.

Columbia MB at 147 (citing Columbia St. No. 1-R at 25). OSBA and its Witness Mr. Knecht further detailed how these programs do not provide a direct benefit to other rate classes<sup>5</sup> and the inefficiency of attempting to provide societal benefits through utility rates and the confusion in ratemaking this creates:

I observe that using broad societal benefits for allocating utility costs may lead to more confusion and complexity in regulatory matters. If all societal benefits get factored into utility rate cost causation, there will be no end of claimants seeking special treatment. For example, the OSBA could argue that small businesses provide benefits to the economy in the form of job creation, economic dynamism, innovation, *et cetera, et cetera*, and are therefore deserving of special rate treatment.

As to the societal benefits of aid to low-income customers, utility programs do not represent a particularly effective means for providing that assistance. In my view, achieving the societal benefits is better accomplished through programs that (a) provide benefits to *all* low-income customers regardless of their heating fuel, (b) provide benefits to *all* low-income customers, regardless of whether they enroll in a utility program, (c) are carefully integrated into all

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<sup>5</sup> OSBA St. 1-R, Knecht Rebuttal Testimony at 6:17-23.

other legislated benefits for low-income customers, and (d) are financed in a more progressive manner through tax policy.<sup>6</sup>

Moreover, imposing these costs on other rate classes now considering the pandemic and its affects on businesses will just exacerbate the issues commercial and industrial customers are facing. PSU MB at 17, CII MB at 19, OSBA MB at 21. OCA and CAUSE have not shown that the alleged indirect societal benefits of universal service programs will outweigh the detriments of imposing universal service costs on commercial and industrial customers.

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

**E. Bill Impacts - N/A**

**XI. CONCLUSION**

As detailed herein, Your Honor and the Commission should use Columbia's Average Cost of Service Study that fairly resolves the bias in the Peak and Average and Customer Demand methods and should not allocate universal service costs to customers outside the residential rate class who neither are eligible for such program nor benefit from it. Moreover, such funding is better suited to the Legislature than this Commission. Otherwise, the Commission would be violating the *Lloyd* decision.

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<sup>6</sup> OSBA St. 1-R, Knecht Rebuttal Testimony at 7:2-14.

Respectfully submitted,

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