BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	R-2020-3018835
Office of Small Business Advocate	:	C-2020-3019702
Office of Consumer Advocate	:	C-2020-3019714
Columbia Industrial Intervenors	:	C-2020-3020105
Dr. Richard Collins	:	C-2020-3020207
Ionut R. Ilie	:	C-2020-3020498
The Pennsylvania State University	:	C-2020-3020666
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	

RECOMMENDED DECISION

Before
Katrina L. Dunderdale
Administrative Law Judge

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I. INTRODUCTION

This Recommended Decision concerns the proposal of Columbia Gas Company of Pennsylvania, Inc., to increase its overall base rates by approximately $100.4 million per year, or by 17.54%, in addition to its proposal to increase the residential fixed monthly charge from $16.75 to $23.00. This base rate decision recommends the Commission deny the request of Columbia Gas Company of Pennsylvania, Inc. in its entirety because it has not met its burden of proving, by substantial evidence, that the proposed base rate revenue increase will result in just and reasonable rates, as required by 66 Pa.C.S.A. § 1301 during the current Coronavirus-2019 pandemic. Because the Commission may disagree with the recommendation to deny the proposed base rate revenue increase in its entirety, the Administrative Law Judge reviews each element in the proposed base rate increase and proposes whether Columbia Gas of Pennsylvania, Inc. proved each proposal by substantial evidence. The ALJ does not recommend an alternative revenue requirement and rate of return, as explained in Section III, Subsection C-9 of the Recommended Decision below, because the mathematical calculation may change if the Commission agrees with some but not all of the recommendations for each proposal. The end of the statutory suspension period is February 25, 2021.

Columbia Gas of Pennsylvania, Inc. averred in its initial filing it <u>currently</u> charges $87.57 for natural gas service to the typical Residential customer using 70 therms monthly, in addition to the fixed customer charge totaling $16.75. In addition, Columbia Gas of Pennsylvania, Inc. charges $145.15 for natural gas service to the typical Small Commercial customer using 158 therms monthly. Further, the Company charges $994.04 for natural gas service to the typical Small Industrial customer using 1,328 therms of gas monthly.

In its initial filing and through this proceeding, Columbia Gas of Pennsylvania, Inc. averred it <u>proposes</u> to charge $103.19, an increase of 17.84%, for natural gas service to the typical residential customer using 70 therms monthly, in addition to increasing the fixed customer charge to $23.00. In addition, the Company proposes to charge $167.77, an increase of 15.58%, for natural gas service to the typical Small Commercial customer using 158 therms

monthly. Further, the Company proposes to charge $1,124.93, an increase of 13.17%, for natural gas service to the typical Small Industrial customer using 158 therms monthly.

II. HISTORY OF THE PROCEEDING

A. Introduction

On April 24, 2020, Columbia Gas of Pennsylvania, Inc. (Columbia, Columbia Gas or Company) filed Supplement No. 307 to Tariff Gas Pa. P.U.C. No. 9 at Docket No. R-2020-3018835, with an effective date of January 23, 2021, with the Pennsylvania Public Utility Commission (Commission).[1] Columbia proposed to increase overall rates by approximately $100.4 million per year, or 17.54% over present revenues. Columbia's proposal, if granted, would increase the average residential customer bill from $87.57 to $103.19, or by approximately 17.84%. Columbia also proposed to increase the residential fixed monthly charge from $16.75 to $23.00.

On April 27, 2020, the Commission's Bureau of Investigation & Enforcement (BIE) filed a Notice of Appearance. On May 4, 2020, the Office of Small Business Advocate (OSBA) filed a public statement and formal complaint at Docket No. C-2020-3019702. On May 5, 2020, the Office of Consumer Advocate (OCA) filed a public statement and formal complaint at Docket No. C-2020-3019714.

On May 14, 2020, the Community Action Association of Pennsylvania (CAAP), which represents Pennsylvania's community action agencies that provide anti-poverty planning and community development activities for low-income communities and services to individuals and families who are customers of Columbia, filed a Petition to Intervene.

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[1] Originally, Columbia Gas expected to file this base rate request on or before March 20, 2020. However, beginning on March 16, 2020, pursuant to an Executive Order issued by the Pennsylvania Deputy Secretary for Human Resources and Management due to the COVID-19 disaster emergency declaration of the Governor, the Commission's physical offices were closed. As of the entry date of this decision, the Commission's office buildings remain closed due to the COVID-19 disaster emergency; however, the Commission remains fully operational with its staff teleworking. All business was conducted via electronic mail and/or telephonically. On March 25, 2020, Columbia requested to postpone the initial filing until on or before April 28, 2020. The Commission granted the Company's request by Secretarial Letter issued on March 27, 2020.

On May 18, 2020, the Coalition for Affordable Utility Services and Energy-Efficiency in Pennsylvania (CAUSE-PA), which represents low- and moderate-income individuals and advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain affordable water, electric, heating, and telecommunication services, filed a Petition to Intervene.

By Order entered May 21, 2020, the Commission suspended the implementation of Supplement No. 307 by operation of law, pursuant to 66 Pa.C.S.A. § 1308(d), until January 23, 2021, unless permitted by Commission Order to become effective at an earlier date, and instituted an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations proposed. The Commission assigned the matter to the Office of Administrative Law Judge (OALJ) for the prompt scheduling of such hearings as may be necessary and issuance of a Recommended Decision. Subsequently, the matter was assigned to the undersigned as presiding officer.

On May 22, 2020, the OALJ scheduled a prehearing conference on June 3, 2020, at 9:00 a.m. Also, on May 22, 2020, the presiding officer issued a Prehearing Conference Order which provided procedural information for the prehearing conference.

On May 29, 2020, the Columbia Industrial Intervenors (CII), on behalf of its members (Hanover Foods Corporation, Knouse Foods Cooperative, Inc. and RHI Magnesita), filed a formal complaint at Docket No. C-2020-3020105.

On May 29, 2020, BIE filed an Expedited Motion to Extend the Statutory Suspension Period During the Emergency Interruption of Normal Operations of the Pennsylvania Public Utility Commission (Motion to Extend). BIE asked Chief Administrative Law Judge Charles Rainey (CALJ Rainey) to grant an extension of the suspension period from January 23, 2021 to February 4, 2021 pursuant to the Commission's Emergency Order at Docket No. M-2020-3019262, dated March 20, 2020 and ratified by the Commission on March 26, 2020, which authorized the CALJ to establish reasonable deadlines under the circumstances, after

consideration of the position of the parties and the presiding ALJ, if necessary in response to the obstacles created by the COVID-19 pandemic.

Thereafter, on May 29, 2020, Administrative Law Judge Katrina L. Dunderdale (ALJ Dunderdale or the presiding officer) issued an email directive to the parties, requesting responses from all parties to the Motion to Extend on or before 9:00 a.m. on June 2, 2020. The presiding officer also requested the parties meet prior to the prehearing conference to ascertain if the parties could agree on an appropriate suspension date.

On June 3, 2020, the presiding officer conducted a prehearing conference in which various procedural matters were discussed and a litigation schedule was established. Present during this conference were counsel representing the following: Columbia Gas, OCA, OSBA, BIE, CII, CAAP, and CAUSE-PA. Also, on June 3, 2020, a formal complaint was filed by Dr. Richard Collins at Docket No. C-2020-3020207.

Initially, the parties were joined at the prehearing conference by CALJ Rainey for the purpose of hearing oral argument concerning BIE's Motion to Extend. After the parties were provided with an opportunity to state their relative positions on the record, CALJ Rainey ruled orally to grant BIE's request. After the prehearing conference concluded, CALJ Rainey followed up his oral ruling in an written Order which granted BIE's Motion to Extend and extended the suspension period for resolution of this case by twelve (12) days—i.e., from January 23, 2021 to February 4, 2021. (*June 3 Order*).

During the prehearing conference, the parties addressed various procedural matters including: the procedural schedule; service of documents; identification of witnesses and subject area of testimony; location, method and start time of hearings; need for public input hearings including the method of meeting and the dates for a public input hearing; discovery modifications; the official service list; consolidation of formal complaints filed against the base rate proceedings; and two petitions to intervene.

On June 12, 2020, the presiding officer issued a Prehearing Order which memorialized the matters discussed by the parties during the prehearing conference on June 3, 2020 and issued various rulings of the presiding officer where no consensus could be reached. Also, on June 12, 2020, OALJ issued a hearing notice which scheduled evidentiary hearings for September 22, 2020 through September 24, 2020.

On June 15, 2020, the presiding officer issued an Amended Prehearing Order to clarify some inaccurately dates in the litigation schedule contained in the Prehearing Order. In addition, the Amended Prehearing Order revised the date for the telephonic public input hearings after Columbia Gas, BIE and OCA advised the presiding officer on June 15, 2020, that there was insufficient time to provide two weeks' notice of the public input hearings originally scheduled for July 1, 2020. Accordingly, on June 15, 2020, OALJ issued a Telephonic Public Input Hearing Notice which scheduled public input hearings for July 8, 2020 at 1:00 p.m. and 6:00 p.m.

On June 18, 2020, Columbia Gas submitted an unopposed Motion for Protective Order pursuant to 52 Pa.Code § 5.423(a), which was granted on June 23, 2020. Also, on June 23, 2020, a formal complaint was filed by Ionut (John) R. Ilie at Docket No. C-2020-3020498.[2]

On June 23, 2020, Columbia Gas filed a Petition for Reconsideration from Staff Action (Petition for Reconsideration) and sought a reversal by the Commission of the CALJ's *June 3, 2020* Order. Responses to this Petition were filed by BIE, OCA, OSBA.

On July 8, 2020 at 1:00 p.m., the presiding officer conducted a telephonic public input hearing at which two witnesses testified. The 6:00 p.m. public input hearing was cancelled because no individual signed up to testify or to be present. Columbia Gas objected to the testimony of one witness, contending the witness should not be permitted to testify because he was neither a party nor a current ratepayer. The ALJ ruled the witness could testify and submit

[2] By electronic mail on September 24, 2020, Mr. Ilie requested withdrawal of his formal complaint, which request was not opposed by any other party. Withdrawal of this complaint will be so ordered in one of the Ordering Paragraphs below.

six exhibits into the hearing record, over the objections of Columbia Gas, but Columbia Gas could submit written objections to the ALJ after the public input hearing. Also, on July 8, 2020, the Pennsylvania State University (PSU) filed a formal complaint at Docket No. C-2020-3020666.

On July 15, 2020, Columbia Gas filed Objections of Columbia Gas of Pennsylvania, Inc. to the Written Statement and Exhibits of Richard C. Culbertson (Objections to Culbertson Testimony) in which Columbia Gas requested the presiding officer exclude certain portions of the written statement and exhibits submitted by Mr. Culbertson at the public input hearing. Columbia Gas specifically objected to Public Input Exhibits 1, 5 and 6.

On July 27, 2020, OALJ issued an Initial Call-In Prehearing Conference Notice which scheduled a prehearing conference for July 31, 2020 to address Columbia's Gas Objections to Culbertson Testimony. On July 31, 2020, the prehearing conference was held at which Columbia Gas argued in favor of its objections and OCA and CAAP argued against the objections.

At the Public Meeting on August 6, 2020, the Commissioners considered Columbia's Petition for Reconsideration, which was denied in part and granted in part. Vice Chairman David W. Sweet sponsored a motion which was adopted by all Commissioners. Pursuant to the Motion, the Commission denied the Petition for Reconsideration in that it affirmed the *June 3 Order* of CALJ Rainey to grant the Petition for Extension, and granted the Petition in that the effective suspension date remained January 23, 2021. In addition, the OALJ was directed to issue a Recommended Decision in this matter on or before November 20, 2020.[3]

On August 7, 2020, the presiding officer issued the First Interim Order which amended the litigation schedule to reflect the recommended decision due date prescribed by the Commission's order adopted on August 6, 2020.

[3] The Commission adopted V.C. Sweet's Motion at public meeting on August 6, 2020 and the Commission's Opinion and Order was entered on August 20, 2020.

On August 11, 2020, the parties notified the presiding officer via email that, in an effort to maintain the original procedural schedule, an agreement had been reached by the parties which would extend the suspension date to February 25, 2021, maintain the effective date of January 23, 2021 as required by the Commission's order adopted August 6, 2020, and move the due date for the Recommended Decision from November 20, 2020 to December 4, 2020.

On August 12, 2020, Columbia Gas filed Supplement No. 315 to Tariff Gas-Pa. P.U.C. No. 9, which voluntarily suspended its statutory suspension period from January 23, 2021 to February 25, 2021, with rates to go into effect January 23, 2021—i.e., subject to the condition that Columbia Gas will bill retroactively for the revenues lost at the final approved rates for the period from the end of the statutory suspension period (January 23, 2021) through the date the Commission makes its approved rates effective by approving the requisite compliance filing.

On August 13, 2020, the presiding officer issued the Second Interim Order which reinstated the original litigation schedule established in the Amended Prehearing Order.

Also, on August 13, 2020, the presiding officer issued the Third Interim Order which denied Columbia's Objections to Culbertson's Testimony and admitted the written statement and exhibits of Mr. Culbertson.

On September 24, 2020, the presiding officer conducted the telephonic evidentiary hearing. At the hearing, the parties submitted written statements, with signed affidavits from each witness, and exhibits of the various witnesses pursuant to an agreement between the parties that cross-examination would not be necessary. A full list of all the written statements and exhibits admitted into the hearing record at the evidentiary hearing are attached to this Recommended Decision as Appendix A.

On September 25, 2020, the presiding officer issued the Post-Hearing Order which ordered that the written statements, exhibits and verifications sponsored and moved into the hearing record by the parties on September 24, 2020, should be entered into the Commission's hearing record in the proceeding docketed as R-2020-3018835. A listing of all

the evidence, as marked and labeled, was attached as Appendix A to the Post-Hearing Order. The Post-Hearing Order required all the parties which had evidence admitted into the hearing record to file an accurate copy of the same with the Commission within 14 days, or on or before October 9, 2020. By the same Order, the presiding officer closed the hearing record.

On October 16, 2020, main briefs on the issues reserved for litigation were filed by Columbia Gas, BIE, OCA, OSBA, CAUSE-PA, CAAP, CII and PSU. Reply briefs were filed by these parties on October 30, 2020.

The hearing record consists of 221 transcript pages and the above-referenced statements, exhibits, and documents. The record closed containing all briefs and the transcripts. This matter is now ready for a Recommended Decision.

B. Public Input Hearings

Telephonic public input hearings were held on July 8, 2020 at 1:00 p.m. and 6:00 p.m. Two individuals testified at the afternoon hearing, and the 6:00 p.m. hearing was cancelled because no individual signed up to testify or to be present.

At the afternoon public input hearing on July 8, 2020, Richard Culbertson[4] and Gregory Berkebile[5] testified. Mr. Culbertson spoke against Columbia Gas' proposal to increase the base rate. From 2009 to 2016, Mr. Culbertson purchased a total of four residential rental units that receive natural gas service from Columbia Gas. He noted he is not a current customer of Columbia Gas, but he becomes a customer when the rental properties are vacant. Mr. Culbertson testified Columbia Gas' proposed 17.4% increase would be a 19.09% increase after taxes are added. He noted that Columbia Gas' rate base per customer is disproportionately greater for Columbia Gas when compared to the rate base for any other NiSource "sister" utility. Based on the comparison with sister utilities, the witness testified the base rate is unreasonable

4 Transcript, July 8, 2020, at 30-35, 69-95.

5 Transcript, July 8, 2020, at 101-109.

because the NiSource-related companies all operate under the same (federal) regulations and accounting standards. The witness also contended documents from the parent company's website, directed towards investors, indicate the subsidiaries, including Columbia Gas, plan to double the rate bases over the next five years. Mr. Culbertson noted objections to Columbia Gas' alleged compliance with pipe safety regulations at the federal level and contended Columbia Gas did not recognize the ways in which safe and reliable service, quality products and safety-based procedures should be provided to customers.

Mr. Berkebile testified that he co-owns a commercial restaurant business in Perryopolis, Fayette County, at which location Columbia Gas has provided natural gas service for over 30 years. Mr. Berkebile testified his restaurant business has seen a 70% drop in overall business even though they have offered take-out service since early April 2020. Since that time, he noted his utility consumption has remained constant. He testified that the 13% increase which Columbia Gas proposes to add to his commercial account bill would cost his business approximately $1,500 more per year over the typical annual cost, which is approximately $12,000. Mr. Berkebile noted the last thing he needs during these trying times with the pandemic is to be forced to pay 13% more, especially since he estimated it likely will take years before his family business can be rebuilt back to the level at which it functioned before the pandemic. Mr. Berkebile highlighted his Columbia Gas bill from February 2020 in which the business used 1,316 therms and was charged $1,056.99. He testified that out of the $1,056.99 total bill that month, $40.06 were the taxes, and, of the remaining $1,017, thirty percent (30%), or $300, was the cost of the commodity itself and seventy percent (70%), or $716, were distribution costs which included operating costs, emergency and logistics costs, and the Distribution System Improvement Charge (DSIC).

C. Description of the Company

Columbia Gas is a "public utility" and "natural gas distribution company" (NGDC) as those terms are defined in Sections 102 and 2202 of the Public Utility Code, 66 Pa.C.S.A. §§ 102, 2202. As such, Columbia Gas provides natural gas distribution, sales, transportation, and/or supplier of last resort services to approximately 433,000 retail customers in

portions of 26 counties of Pennsylvania, primarily in the western half of the state, but also including parts of northwest southern and central Pennsylvania.

D. Rate Requests

Columbia Gas' increase request, as filed, proposes to increase rates designed to produce an overall revenue increase of approximately $100.4 million annually, or an approximate increase of 17.54%, and an opportunity to earn an overall rate of return equal to 8.0% on a claimed rate base of $2.401 billion. Columbia also proposed an increase in the residential customer charge from $16.75 to $23.00, or by 37.3%.

However, as will be further discussed herein, this Recommended Decision recommends that the Commission deny the request of Columbia Gas to increase the base rate because it is contrary to the public interest and will create unreasonable and unjust rates.

III. DISCUSSION

A. Summary of Issues and Arguments

This base rate proceeding revolved, primarily, around two major questions which drove the parties to create a specific briefing outline. That briefing outline was incorporated into the Discussion section of this Recommended Decision (RD) and includes the positions advocated by the briefing parties. Those two major questions informed and dictated the discussions and arguments between and among the parties, and with the ALJ.

First, should the Commission deny Columbia Gas' requested base rate increase in its entirety because the public utility did not meet its burden to prove the proposed rates are reasonable, just and in the public interest, especially in light of the COVID-19 pandemic which is of such epic proportions with unknown consequences to the financial and social health for Columbia Gas' customers and investors? Second, if the answer to Question 1 above is "no,"

what base rate and charges are just and reasonable and in the public interest for Columbia Gas to charge, effective January 23, 2021?

The ALJ recommends the answer to the first question should be "yes." The ALJ provides an alternative answer to the second question if the Commission answers the first question "no."

The Discussion Section that follows is divided into seven major sections, based on the common base rate briefing outline requested by the parties: Rate Base, Revenue, Expenses, Taxes, Rate of Return, Miscellaneous Issues, and Rate Structure. Some of those sections are further divided into major categories. The ALJ's recommended alternative disposition is included at the end of each major category.

B. Burden of Proof

In a rate case, it is axiomatic that the burden of proof to demonstrate the rates sought are just and reasonable lies squarely on the utility proposing the rates rather than a party challenging the implementation of those rates.[6] Public utilities have the burden to establish the justness and reasonableness of every element of its rate increase in all proceedings conducted under Section 1308(d) of the Public Utility Code. Moreover, "[p]ursuant to Section 102 of the [Public Utility] Code, a public utility's rates include, *inter alia*, <u>every individual charge that utility demands for any service offered, rendered, or furnished by the utility, whether received directly or indirectly</u>." *Metro. Edison Co. v. Pa. Pub. Util. Comm'n*, 22 A.3d 353, 359 2011 (Pa.Cmwlth. 2011) (underline added for emphasis) (*citing* 66 Pa.C.S.A. § 102).

The standard of proof, which a public utility must meet, is set forth in Section 315(a) of the Public Utility Code (Code), 66 Pa.C.S.A. § 315(a), which specifies that, "[i]n any proceeding upon the motion of the Commission, involving any proposed or existing rate of any

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[6] *See* 66 Pa.C.S.A. § 315(a); *see also, Lower Frederick Twp. v. Pa. Pub. Util. Comm'n*, 48 Pa.Cmwlth. 222, 226-27, 409 A.2d 505, 507 (1980); *Brockway Glass v. Pa. Pub. Util. Comm'n,* 63 Pa.Cmwlth. 238, 437 A.2d 1067 (1981).

public utility, or in any proceeding upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility." Pennsylvania's Commonwealth Court has upheld this standard of proof and has applied it in base rate proceedings,[7] even when the question concerning an element of the base rate increase request was raised by a party instead of the public utility.[8]

In this proceeding, the burden of proof lies squarely with Columbia Gas because it is the public utility seeking permission from the Commission to increase its base rate and change some elements of rate base. The burden of proof did not shift to any statutory party or individual challenging the requested rate increase. Instead, the utility's burden, to establish the justness and reasonableness of every component of its rate request, is an affirmative one and remained with the public utility throughout the course of the rate proceeding.[9]

Under the Public Utility Code, rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S.A. §§ 1301, 1304. As indicated above, the public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request.[10]

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[7] *Lower Frederick Twp. v. Pa. Pub. Util. Comm'n.*, *supra*. *See also Brockway Glass v. Pa. Pub. Util. Comm'n*, *supra*.

[8] *See Pa. Pub. Util. Comm'n. v. National Fuel Gas Distribution Corp.*, 1994 Pa. PUC LEXIS 134 *5 (1994); *Pa. Pub. Util. Comm'n v. Breezewood Telephone Company*, 74 Pa. PUC 431 (1991); and *Pa. Pub. Util. Comm'n v. Equitable Gas Co.,* 57 Pa. PUC 423, 471 (1983).

[9] *See also* 66 Pa.C.S.A. §1501, requiring a utility to have reasonable rules governing service. There is no similar burden placed on parties which challenge a proposed rate component. *See Berner v. Pa. Pub. Util. Comm'n*, 382 Pa. 622, 631, 116 A.2d 738, 744 (1955).

[10] 66 Pa.C.S.A. § 315(a); *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00038805, 236 PUR 4th 218, 2004 Pa. PUC LEXIS 39 (August 5, 2004).

C. Parties' Briefing Positions Concerning Rate Increase Request

1. Columbia Gas' Position

Columbia notes that various parties (OCA, CAUSE-PA, CII and CAAP) suggest that the Commission must "balance the interest" between customers and investors and propose that the Commission should not approve an increase. Columbia contends there is overwhelming evidence in this proceeding that a rate increase is justified under traditional ratemaking principles. Columbia argues that rejecting any increase does not balance customers' and investors' interests. Columbia argues that the Commission will be establishing a new ratemaking standard - that rate increases can be granted or denied based upon subjective assessments of whether a sufficient number of customers will have trouble paying increased rates. Such a standard not only imperils the execution of needed safety investments in the short term but will do long term harm as investors assess whether to continue to invest in Pennsylvania utilities or shift investment to other states or other enterprises.

a. Introduction

Columbia explains that OCA's proposal – to urge the Commission to deny Columbia's entire rate increase to protect the ratepayers that are experiencing unemployment and income loss due to COVID-19 - fails to meet minimum federal constitutional standards and fails to meet standards under the Public Utility Code and the Commission's regulations for adjudicating a proposed rate increase. Columbia argues the Public Utility Code empowers the Commission to provide programs to assist the same low-income customers which OCA repeatedly references as those most harmed by COVID-19.

Columbia contends that OCA is wrong to assert that continuing Columbia's current rates without a rate increase will produce an overall 5.52% rate of return, which would result in an opportunity to earn an equity return of only 6.53%, and that such a return would be adequate to meet constitutional standards. Columbia argues that contention is unsupported by expert testimony and contrary to OCA's own rate of return witness' testimony that an overall

equity return of 8.5% is required by market evidence.[11] In addition, Columbia argues it would be exceedingly poor public policy, and ultimately harm customers and the public in the service area if the Commission denies an entire rate increase solely on the basis of its effect on customers.

Columbia asserts it last received a base rate increase in late December 2018 but if the Commission denies this rate increase, to be effective on January 23, 2021, that denial would amount to no base rate increase for 25 months. The Company contends that denial would create great uncertainty as to when the Commission would allow a further increase in base rates and would result in a further delay of any increase in base rates for at least an additional nine months. This continued uncertainty could limit the Company's ability to raise capital on reasonable terms and to continue its aggressive main and service replacement program. Columbia asserts most of this investment goes directly into the communities in which Columbia serves, which benefits local economies. Columbia St. No. 17-R at 16-18. The Company argues that, even if it could somehow continue most of its replacement program, the amount of an ultimately approved rate increase would result in a much higher increase to customers to reflect additional replacement of aged infrastructure. In addition, the Company asserts any interim cutbacks in the replacement program would slow safety improvements and reduced spending would harm the public by injecting less spending into the service areas.

Columbia contends a far better solution is available and asserts this solution is clearly supported by the Public Utility Code. The Company argues the Commission should grant an increase based upon application of the established rate-making formula and the record evidence. For those customers who struggle to pay their bills, the Commission can, and Columbia already has, implemented program changes to assist customers. This approach is in the long-term interest of both customers and the Company.

[11] As Columbia explained in Section VIII of its brief, an 8.5% equity return is wholly inadequate and is based substantially upon an inappropriate retained earnings approach to deriving a DCF growth rate.

b. The Commission should reject OCA's contention to reject the entire rate case because some customers might not be able to afford the new rate.

Columbia points out OCA's suggested solution is overbroad, constitutionally deficient, contrary to the requirements of the Public Utility Code and fails to prove its contention because OCA: (1) does not emphasize that most customers, struggling to pay their bills, have access to various forms of government assistance (Columbia St. No. 16-R at 16); (2) does not quantify the effects of any increase in Columbia's rates on customers' budgets; and (3) does not explain why the many customers who have not lost income should be exempted from paying a reasonable increase in rates to continue to improve the safety and reliability of the Company's distribution system. In addition, Columbia argues OCA's contention - that there are separate zones of reasonableness for investors and customers and the Commission can deny a rate increase without balancing the interests of investors - is both novel and unsupported.

Columbia repeats that a rate, or return on investment, must be reasonable (i.e., neither confiscatory of the utility's property nor exploitive of customers) and a "null" rate or return on investment which falls below the lowest reasonable rate within the traditional zone of reasonableness is confiscatory. Columbia argues that for the Commission to "act within the broad public interest" means determining the just and reasonable rate in times of economic distress without favoring customers' interests over investors' interests because favoring either customers' interests or the investors' interests would be a distortion of the most accepted principle of utility ratemaking as announced in the famous *Hope* decision by the U.S. Supreme Court[12] - that rates are defined to be just and reasonable if they *balance* consumer and investor interests, and the public interest is determined by a balancing of the interests without favoring either of them. Columbia St. No. 16-R at 18-20.

Columbia points out that OCA acknowledges the same legal principle but applies it incorrectly to the extent its proposal is constitutionally deficient. Columbia asserts OCA advocated the Commission should maintain Columbia's existing rates without the required

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[12] *Federal Power Comm'n v. Hope Natural Gas*, 320 U.S. 591, 603 (1944).

balancing of interests. Columbia argues the Commission should take not only a broad view of the public interest but a long one as well because utilities provide essential services that require ongoing investment supported by regular and rational rate relief, especially to put in place costly long-lived infrastructure made possible by indispensable private investors. Columbia contends that it, more than most Pennsylvania utilities, needs this long view because of its initiative in 2007 to commence aggressive replacement of bare steel, wrought iron, and cast iron pipe[13] and its continuing commitments to do so as evidenced by its First and Second Commission-approved Long Term Infrastructure Improvement Plans.[14] Columbia St. No. 16-R at 18-20.

Columbia contends OCA's proposal is also contrary to Section 1301 of the Public Utility Code, which requires that every rate increase "shall be just and reasonable and in conformity with regulations or orders of the Commission." 66 Pa.C.S.A. § 1301. Columbia points out Section 315 of the Public Utility Code authorizes a public utility to use "a fully projected future test year" (FPFTY) to meet its burden of proof. 66 Pa.C.S.A. § 315(e). In addition, the Commission has extensive regulations as to the data to be submitted to justify an increase in rates. 52 Pa.Code § 53.35. Columbia contends OCA's attempt to ignore these requirements and simply deny any rate increase based upon the effects on customers invites the Commission to ignore the Public Utility Code.

Columbia also contends OCA argues it does not need a rate increase, claiming the Company will earn a 5.52% overall return in its FPFTY even without an increase, and 5.52% is an adequate return. OCA M.B. at 24. Columbia argues there are several problems with this contention. First, no OCA witness presented any market evidence that such an overall return, which equates to an opportunity to earn only a 6.53% return on equity, meets the requirements of the market or is sufficient to raise equity capital. OCA M.B. Table 1(A) no increase scenario. Columbia points to OCA's rate of return witness, Mr. O'Donnell, who proposed an 8.5% return on equity, which contributed to an increase of $31 million in OCA Witness Effron's testimony. OCA St. No. 3 at 19-20; OCA St. No. 2, at 4. Columbia points to OCA's market evidence which

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[13] Columbia St. No. 14 at 3.

[14] *See* Docket Nos. P-2012-2338282 (filed December 7, 2012 and approved March 14, 2013) and P-2017-2602917.

suggests a return on equity of at least 8.5%, nearly 2% above the 6.53%. Furthermore, the Commission's current published return on equity for use in natural gas DSIC is 10.1%. Therefore, Columbia argues there is no record evidence that holding Columbia's rates constant will provide the Company with an opportunity to earn a fair rate of return and allow it to maintain a financial profile sufficient to allow it to raise the capital it needs to provide service on reasonable terms.

Columbia disagrees with the conclusions OCA reached, when it cited one case in Massachusetts during the Great Pandemic and some depression era actions of the Public Service Commission to try to justify denying an increase in rates in this case. Columbia notes OCA cited to a Public Service Commission (PSC) resolution adopted in 1934 as precedent for denying Columbia rate relief here and for reducing rates generally during distressed economic conditions. Columbia also noted OCA quoted from a history of the Philadelphia Electric Company (PECO), in support of its position that the "PSC lowered rates substantially during the Great Depression based (at least in part) on prevailing economic conditions as stated in the 1934 resolution."

Columbia responds to those assertions by OCA and contends the resolution was arbitrarily adopted and implemented, as the PECO history makes clear, and notably was not adopted until over four years after the onset of the Great Depression, after the PSC better understood the resulting economic effects. Columbia asserts the PSC did not take action until well after the onset of the Depression (which began with the stock market crash in September-October 1929) and, in the end, the PSC assessed the effect of the economic dislocation for over four years before adopting the resolution in the spring of 1934. Until then, the PSC continued to award rates of return of 7 percent.[15] Columbia St. No. 16-RJ, at 5-7.[16]

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[15] *City of Scranton v. Scranton-Spring Brook Water Service Co.*, 10 Pa.P.S.C. 609 (1930); *Ruttle v. Cheltenham & Abington Sewerage Co.,* 10 Pa.P.S.C. 502 (1931); *Borough of Honesdale v. Honesdale Consolidated Water Co.*, 10 Pa.P.S.C. 653 (1931); *Reeves v. Highspire Water Supply Co.*, 11 Pa.P.S.C. 143 (1931); *Weinhold v. Pennsylvania Chautauqua*, 12 Pa.P.S.C. 230 (1933); *Taxpayers Protective Association of Easton v. Lehigh Water Co.*, 14 Pa.P.S.C. 1 (1936) (7% return for the period October 1, 1931 to March 15, 1933, and 6% return "designated by the Commission on April 2, 1934, as the allowable rate of return" for the period March 14, 1933, forward).

[16] Columbia notes the PSC did not have the statutory authority, as the Commission has, to implement customer assistance programs for low income customers. *See* Section 2203(7) and (13) of the Public Utility Code, 66 Pa.C.S.A. §§ 2203(7) and (13).

Columbia argues the Massachusetts case OCA cited – which denies a rate increase in the Great Pandemic of 1918 - does not support OCA's contention. Columbia contends the case cited - *Donham v. Public Service Commission*, 232 Mass. 309, 122 N.E. 397 (1919)[17], with a quotation appearing in that case from *Missouri, Kansas & Topeka Railway Co. v. Interstate Commerce Commission*, 164 Fed. 645, 648 (1908) (confirming the settled principles that investors' and customers' interests must be balanced, and that a utility bears the burden of failing to achieve its allowed return if it operates imprudently or inefficiently) - is a lonesome and factually inapt precedent for making a valid public policy recommendation for the present pandemic circumstances. Columbia argues the economic effects of the influenza epidemic in 1918 had little to do with that Commission's decision, while the court's decision primarily concerned the propriety of the rates proposed by the receiver of the streetcar company's parent company versus the trial period rates set by the Commission. Columbia St. No. 16-R, at 21-22.

The Company argues *Donham* does not provide any basis to support OCA's claim that a rate increase can be denied based on a pandemic, and has no effect on Pennsylvania law. Importantly, denying a rate increase in difficult economic times is contrary to modern economic theory, which is based on stimulating the economy during difficult times. Columbia suggests the Commission heed an observation in the updated edition of a classic public utility law treatise (first published by James C. Bonbright in 1961):

> In more recent years, business-cycle experts have become skeptical of proposals to combat a depression by enforced reductions of administered prices, and attention has been turned to other alternatives including the possibility of using the versatile machinery of government to encourage private utilities *to maintain their construction and equipment budgets*, even when their existing plants are partly idle because of a temporary drop in demand."[18]

Columbia argues the massive stimulus programs of the federal and state governments to offset the economic effects of COVID-19 are examples of this approach.

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17 Columbia St. No. 16-RJ, at 19-20.

18 James C. Bonbright, Albert L. Danielsen, and David R. Kamerschen, PRINCIPALS OF PUBLIC UTILITY RATES (2d Ed. 1988), PPUR CH 14, 2005 WL 998348 at 22 (emphasis added).

Columbia also points to the undisputed testimony of its Witness Bishop concerning the significant and important economic benefits of Columbia's spending on capital projects as well as on expanded low income programs which contribute to the stimulus required. Columbia St. No. 17-R, at 5-6. Columbia asserts that granting Columbia a rate increase based upon the regulatory formula and the record evidence is necessary to support this modern approach.

Columbia also disagrees with OCA's contention that the Company does not need to raise its rates right now and its citation to decisions by three utilities and two municipal utility systems to withdraw or defer filing rate increases. OCA M.B., at 19. Columbia argues it already voluntarily postponed the effective date of its proposed rates by five weeks, in the middle of Winter and OCA offered no evidence regarding the earnings of these utilities, or their need for rate relief.

c. Columbia's FPFTY Data is reliable and cannot be disregarded.

Columbia argues its expenses have not declined due to the pandemic and asserts that, even exclusive of increased uncollectible expenses, Columbia's expenses are above projections in 2020. This argument is in contravention with OCA's contention that Columbia's FPFTY data may not be relied upon because the data was submitted just after the pandemic struck Columbia's service territory. OCA M.B., at 3-4, 27-28. The Company contends OCA did not offer any evidence that Columbia's FPFTY projections are unreliable because there is no such evidence.

Columbia contends that, through July 31, 2020, the Company experienced net identified increased costs of $373,753, exclusive of uncollectibles. The Company asserts it is working to manage the impact of the changes that COVID-19 had on its operations and in its service territory, but has not furloughed, nor plans to furlough, any front line workers nor does it anticipate not being able to complete compliance work or deploy its budget to accomplish necessary and important risk-reduction work on its system. Columbia St. No. 9-R, at 8. The Company contends these facts are unsurprising because Columbia has a duty to continue to provide safe and adequate service to its customers, which means it must execute its Work Plan.

As an essential business, Columbia was exempt from many of the restrictions imposed by the Governor's Emergency Order. Certain operations, in particular those involving direct customer contacts, were temporarily deferred, but have since restarted as all of Pennsylvania entered the "green" stage under the Governor's Emergency Order since July 2020. Columbia Ex. MJD-3R, at 6; OCA St. No. 2-S, at 12. While certain projected expenses for 2020 have been reduced, such as travel and meetings, other expenses - such as the need to acquire personal protective equipment, cleaning and sanitizing supplies, and costs associated with remote work and the need to implement social distancing - have increased. Columbia St. No. 9-R, at 7. Columbia's 2021 O&M budget may well be conservative because it potentially may need to maintain certain COVID-19 protections in 2021. The Company asserts this is no basis to reject the budget projections as unreliable.

Columbia also contends it has continued to execute its capital budget, a fact which Columbia asserts OCA acknowledged. Columbia argues the facts of record support a conclusion that, despite the temporary construction limitations experienced earlier this year, Columbia was still anticipated to meet its capital budget for 2020. OCA St. No. 2, at 6. Columbia notes those restrictions have been lifted, and there is no basis to speculate that Columbia will be unable to execute its capital budget for 2021. Columbia specifies it continues to implement the safety procedures it instituted since March 2020 to protect both customers and employees in response to the pandemic, and it will continue to evolve those processes in response to government mandate and best practice evidence as required. However, based on the results achieved to date in 2020, the Company fully anticipates it will accomplish the Work Plan and execute the Capital Program reflected in this case for 2021. Columbia St. No. 9-R, at 8-9.

Similarly, Columbia points out that, while OCA speculates revenues in 2021 will be different than projections, OCA offered no evidence to support this speculation. Columbia asserts there will likely be variances between actual and projected revenues, but OCA offered no evidence to substantiate a contention that *pro forma* revenues, normalized and annualized as of

the end of the FPFTY, are unreliable.[19] Columbia provided detailed calculations using established techniques of weather normalization, conservation trends and historic experience in changes to the number of customers to derive its FPFTY revenues.[20] Columbia Ex. 103; Columbia St. No. 3, at 5-15. Columbia argues OCA's contention to deny Columbia's rate increase request in its entirety because its projections cannot be relied upon is unsupported by record evidence and must be rejected.

d. Other parties' contentions do not justify denial of rate increase.

Columbia notes other parties presented arguments in favor of a complete denial or virtually complete denial of Columbia's rate filing, due to COVID-19. The Company argues none of these contentions justify a broad-based, and unconstitutional, denial of a rate increase, as opposed to targeted relief programs. Columbia asserts CAUSE-PA cited to payment troubles of low-income customers (CAUSE-PA M.B., at 7-10); however, Columbia contends it offers a number of Commission-approved programs to assist customers with payment difficulties. These programs provide focused relief to low-income customers. Payment difficulties of low-income customers do not justify relieving higher income customers from a rate increase. CAUSE-PA also cited to a recent report on Columbia's customers who are in arrears in support of its position (CAUSE-PA M.B., at 9), which report indicated the number of residential customers in arrears increased by less than 6,000 from September 2019 to September 2020. Columbia asserts that targeted relief to assist these customers is appropriate, but this does not justify no increase to Columbia's 433,000 customers.

Columbia points to CII's assertion that there was "nothing that compelled" Columbia to file this case. CII M.B., at 3. Columbia disagrees and asserts its projected 4.88% return on common equity certainty is a compelling reason and, unlike non-regulated entities like

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[19] Columbia's *pro forma* FPFTY base rates revenues at present rates reflect a small increase over HTY *pro forma* revenues, primarily due to new customer additions. Columbia Ex. 102, Sch. 3 at 3; Columbia Ex. 103, Sch. 3 at 2.

[20] Columbia notes the Commonwealth Court observed, in *Columbia Gas of Pennsylvania, Inc. v. Pa. Pub. Util. Comm'n*, 613 A.2d 74, 77-78 (Pa.Cmwlth. 1992): "A sufficiently detailed projection is not speculative—it is in the nature of prospective ratemaking for utilities to make projections as to all aspects of their operations when they employ a future test year."

Knouse Foods, Columbia has a statutory duty to serve its customers, and cannot choose to scale back unprofitable areas of business. A rate increase is needed so Columbia has the resources to fulfill its statutory duty. CII further points to increased costs borne by Knouse Foods for personal protective equipment and potential workforce issues. CII M.B., at 4. However, Columbia argues it faces all the same costs and challenges as Knouse Foods, such as incurring over $370,000 on a net basis (exclusive of uncollectibles) due to the pandemic, which are not included in its claim in this case. Columbia St. No. 9-R, at 8.

Columbia notes OSBA contended the Company "turned a blind eye to the pandemic" and the Commission "will be forced to remind them" that the pandemic exists. Columbia argues clearly its testimony demonstrates it was aware of the pandemic and has been proactive in helping those who need assistance. It has similarly been proactive in finding solutions to continue to meet and exceed its public utility obligations while keeping its employees and contractors safe.

Moreover, Columbia argues denial of the rate increase will create unnecessary long-term risks for customers because, by denying timely rate relief, safety will not be supported. Investors will no longer have any assurance that they will have a reasonable opportunity to earn a fair return on investments in Pennsylvania utilities. Good paying construction jobs may need to be curtailed. The next rate increase, whenever it is authorized, would necessarily be greater to reflect this rate increase and any further increases in costs.

Columbia asserts that reasoned utility ratemaking can, and should, continue to support safety, investments, and jobs through traditional ratemaking procedures, while assisting those in need. Other parties' contentions that Columbia should be denied rate relief must be rejected.

e. Conclusion

Columbia argues the proper, constitutional approach is not to deny a rate increase but to implement programs that support those customers with payment difficulties and Columbia

asserts it has adopted many enhanced programs to assist customers facing COVID-19 problems. Columbia's efforts are ongoing, as it looks to develop other ways to help customers with payment problems. Columbia asserts its Main Brief and Reply Brief explain why Columbia's evidence fully supports its rate increase request, and the rate design and other proposals set forth in its filing.

2. BIE's Position

BIE recommends an overall rate increase of $75.9 million. This recommended increase incorporates BIE's adjustments to rate base, expenses, taxes, and rate of return. More detail on BIE's overall position is provided in the tables attached to BIE's Main Brief.

3. OCA's Position

a. Introduction

OCA strongly urges the Commission deny Columbia's rate increase to protect the ratepayers of Columbia's service territory who are, and will be, experiencing unemployment and income loss due to the unprecedented and continuing COVID-19 pandemic. OCA does not recommend Columbia should have rates that are inadequate to ensure the provision of safe and reliable service to its customers. Instead, OCA contends Columbia could continue operations, recover its expenses, and earn a profit without a revenue increase. OCA asserts denying Columbia's rate increase is a reasonable—and temporary—outcome in these extraordinary times, until fewer customers are suffering financially, and the future is more ascertainable for ratemaking.

OCA argues an overall rate of return of 5.52% without any change in rates is more than adequate for Columbia, although OCA acknowledges this rate is not as much profit as Columbia would like, or as much as the Commission may have awarded under normal circumstances. *See* OCA Attachment 1, Rate Case Table, Zero Increase. As OCA's witness pointed out, "[m]ost of Columbia's customers would be absolutely thrilled if they could pay all

their bills (including various increases in expenses that may or may not occur next year), make all of their debt payments, and still have enough left over to earn a profit on their equity investment." OCA St. 1, at 24.

Further, OCA submits the Commission should not rely on Columbia's FPFTY projections and related assumptions which Columbia developed before the pandemic emerged, especially since these projections and assumptions are ever-changing as the effects of this pandemic continue to unravel. OCA St. 1, at 25. OCA contends Columbia could defer new construction projects that are not necessary, if Columbia is concerned about operating revenues during this uncertain time and moving forward, to better ensure the current provision of safe and reliable service to existing customers. *Id.* at 26. Additionally, Columbia could file another rate case after the pandemic ends, when reliable and complete evidence of the full effect of the pandemic will be available to determine just and reasonable rates.

OCA avers there is precedent supporting the Commission's authority to determine that raising rates would not be just and reasonable during this time of extreme economic hardship for ratepayers. OCA St. 1-S at 7-8. In addition, OCA asserts it is within the Commission's discretion to ascertain the reasonable rate of return to award a Company within the constitutional parameters and the Commission's decision must reflect current economic circumstances. OCA submits that increasing Columbia's rates during the COVID-19 pandemic is not only unnecessary at this time, but would not lead to just and reasonable rates given Columbia ratepayers' reduced incomes and ability to pay and the economic uncertainties of Columbia's FPFTY projections in its rate increase filing.

b. The Economic Hardships of Columbia's Ratepayers During and After This Pandemic Should Play a Prevalent Role in the Commission's Decision on Increasing Rates.

OCA warns the economic repercussions of the COVID-19 pandemic—to the extent yet known—are real and significant in Columbia's service territory and the Commission must give great weight to the circumstances of consumers during these extraordinary times. OCA asserts that, as of mid-July, the unemployment rates in the counties served by Columbia

ranged from 8.8% in Centre County to 19.2% in Fulton County. OCA St. 1-S, Schedule SJR-1. In all counties served by Columbia combined, the unemployment rate as of July 2020 was 13.1%, which constitutes a 186% increase from February 2020 to July 2020. *Id.* OCA contends that "[o]verall in the space of less than six months (from mid-March through late August), approximately 38 percent of Pennsylvania's workforce filed an unemployment claim." *Id.* at 2.

OCA asserts there were 30 times as many initial unemployment claims during the week ending March 21, 2020 and 33 times as many during the next week ending March 28, 2020 than the amount during the week ending March 7, 2020, as a consequence of the massive job losses across Pennsylvania. OCA St. 1-S, Schedule SR-6S at 1, Figure 3 (Updated).

OCA points out that there has been a significant reduction in the number of unemployment claims filed, but even as of mid-September 2020, the current level of initial claims filed is almost twice as high as it was in February. *Id.* at 2. OCA also notes that results from a survey conducted by the U.S. Census Bureau revealed that roughly 50% of Pennsylvania households experienced wage loss from March 13, 2020 through July 21, 2020. OCA St. 1-S, Schedule SJR-6S at 3, Figure 5 (Updated).

OCA contends, given the substantial reductions in employment and wages, there is an unusually large pool of ratepayers unable to afford utility bills. In addition, OCA's witness noted only that 56% of Pennsylvanians who lost income said they used their normal source of income to pay bills in the previous week. About 24% cited unemployment benefits and 29% referred to the CARES Act stimulus payments. More people (48%) relied on credit card debt or loans (including loans from family or friends) or money from savings or asset sales (31%) than relied on short-term government benefits. OCA St. 1 at 15. For utility bills specifically, OCA noted a recent survey conducted by the Electric Power Research Institute (EPRI) wherein about two-thirds of people who lost their jobs during the pandemic are concerned about being able to pay their energy bills. Moreover, more than 20% of survey respondents reported that their energy bills were higher because of the pandemic. Further, the survey found that more than 25% of people who lost their jobs are planning to skip at least one utility bill payment, but a much

lower percentage were planning to contact their utilities for assistance. *Id.* at 15-16 (footnote omitted).

OCA submits it is reasonable to assume a significant portion of Columbia's customers are experiencing a situation that aligns with the pandemic-related job and wage loss and cannot reasonably withstand a rate increase at this time. OCA further urges the Commission to recognize the economic repercussions of the pandemic are affecting minorities and individuals of lower income the most. Households headed by a person who the Census Bureau categorizes as being Black, Hispanic, or Asian are much more likely to have experienced an income loss -- and to expect additional income loss during July and into August -- than are households headed by a White, Non-Hispanic person. *Id.* OCA submits a natural gas rate increase in Columbia's service territory will not only increase the financial burden faced by customers experiencing job and wage loss due to the pandemic, but it will likely increase that burden particularly on those individuals belonging to low-income and Black, Hispanic, or Asian households.

OCA points out that businesses in Columbia's service territory have also been impacted substantially from the pandemic, in addition to residential customers. At the end of June 2020, the Census Bureau's Small Business Pulse Survey reported that 41% of Pennsylvania's small businesses expect to need six months or more to return to a normal level of operations, with another 12% saying their business would never fully recover. The Census Bureau stopped the initial round of data collection with the week ending June 27, 2020, but it started a new survey with similar questions on August 9, 2020. In the week ending September 5, 2020, <u>44.7% of Pennsylvania's small businesses said they would need at least 6 months to recover, with another 10.1% saying they would never fully recover from the pandemic</u>. OCA St. 1-S, at 2 (emphasis added); *see also* OCA St. 1 at 16.

From the above information, drawn from surveys and reports on the economic well-being of households and businesses both in Columbia's service territory and in Pennsylvania from the start of the pandemic, OCA recommends that rates in Columbia's service territory not be raised at this time. OCA St. 1 at 22-23. This data, collectively, demonstrates why the economic hardships faced by customers in Columbia's service territory should not be

increased by any increase in Columbia's rates at this time. OCA argues raising rates on Columbia's customers while many are experiencing job and wage loss would only serve to further diminish their currently-reduced incomes and financial resources and the unprecedented situation at hand provides ample basis for the Commission to deny such an increase during this time.

c. Rejecting Columbia's Rate Increase Request During An Unprecedented and Economically Devastating Pandemic Would Result In Just And Reasonable Rates.

OCA recommends that the Commission not focus on Columbia's historic costs, or on cost projections prepared before the pandemic, but rather, to determine "what rates are reasonable for consumers to pay under these extraordinary conditions." *Id.*, at 19. OCA acknowledges this process is not the Commission's standard approach to ratemaking; however, OCA also contends these ratemaking conditions are not standard by any means. Based on the reasons discussed below, it is both legal and practical for the Commission to consider the grave economic environment and financial hardships faced by Columbia's customers and to deny Columbia a rate increase at this time. OCA asserts such consideration will result in just and reasonable rates and is necessary to determine just and reasonable rates at this time.[21]

i. Columbia Does Not Need to Increase Rates Right Now.

OCA contends Columbia's projections are suspect due to the drastic change in the economic environment, and further contends Columbia would have enough revenue to continue safe and reliable operations if its rates remain unchanged. OCA asserts that, in the *pro forma* historic test year (twelve months ending November 30, 2019), under its existing rates, Columbia

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21 OCA notes many examples where utilities have either withdrawn or deferred filing rate increase requests to provide relief to their customers who are likely spending more time at home and/or experiencing some level of income loss during this pandemic. OCA St. 1 at 21-22. Other public utilities, including some in Pennsylvania, have recognized the increased hardships that would be placed on their customers if they were to charge higher rates at this time. OCA provides examples from Minnesota, California, Austin (TX) and PEPCO (from the District of Columbia). OCA notes the recent example with the Philadelphia Water Department which withdrew its pending request for increases in water, wastewater, and stormwater rates that would have become effective in September 2020 and September 2021. In a June 2020 filing, the utility cited "the on-going pandemic and the uncertainty over the anticipated duration of continuing emergency measures." *Id.*

had net income of $131.9 million, which is equivalent to a return on common equity of approximately 9.4%.[22] Even assuming some of Columbia's FPFTY projections are accurate, OCA argues Columbia should only receive a $31 million increase under traditional ratemaking, but OCA stresses that number remains speculative given the uncertainty of the projections and future operations. Simply put, in the near term, OCA argues Columbia's rates are adequate at this time and suggests that, after the COVID-19 pandemic has passed, Columbia can file again for a rate increase[23] when the Company's financial projections will be founded on more stable, and thus predictable, economic conditions.

OCA avers the current and projected ratepayer affordability of rates gives strong weight to the conclusion that granting Columbia's rate request in this proceeding would unnecessarily harm ratepayers and not result in just and reasonable rates. If, however, the economic situation worsens significantly and cash flow becomes a concern for Columbia, the Company could preserve cash by deferring for several months certain construction projects, such as growth-related projects or longer-term system rehabilitation activities, which are not needed to ensure the current provision of safe and reliable service to existing customers. OCA submits, given the vast uncertainty and lack of support for Columbia's claimed costs, a rate increase at this time is not necessary.

ii. Case Law From Similar Economic Circumstances Provides Precedent For the Commission to Deny A Rate Increase Due to Extreme Customer Hardships.

OCA argues a rejection of Columbia's rate increase due to the economic hardships and uncertainties accompanying the COVID-19 pandemic as well as the uncertainties surrounding the FPFTY projections, while not common by any means, would be a legally viable

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[22] "According to Columbia Ex. 2, Sch. 2, its overall rate of return for the *pro forma* historic test year was 7.13%. Using the Company's proposed capital structure for the FPFTY (Columbia St. 8 at 2), this would have resulted in a return on equity of approximately 9.37%, calculated as follows: overall return of 7.13% - 2.05% weighted cost of debt = 5.24% weighted return on equity. 5.08% ÷ 54.19% equity capitalization = 9.374% return on equity." OCA St. 1 at 23, footnote 30.

[23] Columbia notes the Commission is aware the Company frequently files base rate cases. In this proceeding, Columbia witness Miller testified in rebuttal that Columbia plans to file annual rate cases every year for the foreseeable future. Company St. 4-R at 8.

and not an unprecedented ratemaking solution during this abnormal time. OCA points out that, when it comes to ratemaking, "[a]ll that is protected against, in a constitutional sense, is that the rates fixed by the Commission be higher than a confiscatory level."[24] On the topic of rate of return, the U.S. Supreme Court has held:

> "[t]he return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. <u>A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally</u>."[25]

OCA notes the Court has also held that, "whether a particular rate is 'unjust' or 'unreasonable' will depend to some extent on what is a fair rate of return given the risks under a particular rate setting, and on the amount of capital upon which the investors are entitled to earn on that return."[26] "The rate-making process … *i.e.*, the fixing of 'just and reasonable' rates, involves a balancing of the investor and consumer interests . . . and does not insure that the business shall produce revenues."[27] "The owners of a property dedicated to the public service cannot be said to suffer injury if a rate is fixed for an experimental period, which probably will produce a fair return on the present fair value of their property."[28]

OCA asserts that, during the last large-scale nationwide pandemic, the Influenza of 1918, the Supreme Judicial Court of Massachusetts upheld a public service commission

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24 *Federal Power Comm'n v. Texaco, Inc.*, 417 U.S. 380, 392-92 (1974) (*citing FPC v. Natural Gas Pipeline Co.,* 315 U.S. 575, 585(1974)).

25 *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n,* 262 U.S. 679, 693 (1923) (emphasis added).

26 *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 310 (1989) (*Duquesne*).

27 *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) (*Hope*).

28 *Market St. R. Co. v. Railroad Comm'n of California*, 324 U.S. 548 (1945).

ratemaking order that was not expected to permit the utility to earn a profit due to the abnormal times.[29] The court stated:

> To be just and reasonable, within the meaning of the constitutional guaranty, the rates must be prescribed with reasonable regard for the cost to the carrier of the service rendered and for the value of the property employed therein; but this does not mean that regard is to be had only for the interests of the carrier, or that the rates must necessarily be such as to render its business profitable, for reasonable regard must also be had for the value of the service to the public. And where the cost to the carrier is not kept within reasonable limits, or where for any reasons its business cannot reasonably be so conducted as to render it profitable the misfortune must fall upon the carrier, as would be the case if it were engaged in any other line of business.[30]

Although the utility faced hardships of its own, the court noted that it did not deprive the commission of its regulatory responsibility to "exercise its judgment for the protection of the public interests when it does not reduce substantially the revenue proposed to be exacted from the public by the owners of the public utility."[31] In addition, the court emphasized that the rates were "likely to be impermanent and experimental."[32] OCA points out its witness in this case testified that there is nothing new or novel about adapting ratemaking to extraordinary conditions because during the 1918 pandemic, regulators adapted, took actions that provided relief to the public, and did not inflict long-term harm on the utility. OCA St. 1 at 20.

OCA also pointed that in Pennsylvania, during the Great Depression, the Public Service Commission (PSC) called on utilities to reduce rates so that they would earn no more than 6% on their rate base.[33] In recognition that societal economic conditions should affect

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[29] *Donham v. Pub. Serv. Comm'n*, *supra*.

[30] *Id.* (emphases added; quoting from *Missouri, Kansas & Topeka Railway Co. v. Interstate Commerce Comm'n*, 164 Fed. 645 (1908)).

[31] *Id.* at 405.

[32] *Id.*

[33] *Re Utility Rates During Economic Emergency*, 3 P.U.R. NS 123 (Pa.P.S.C. 1934).

utility ratemaking, the PSC stated, “this Commission should take cognizance of the present economic conditions prevailing in the United States and as such economic conditions particularly affect the welfare of the people of this commonwealth.”[34] Similar to the result of the case in Massachusetts during the Influenza and the PSC’s action in response to the Great Depression, OCA argues its proposal - to deny Columbia’s increase in rates - reflects both a viable and reasonable solution to the abnormal and unexpected set of circumstances under which the Commission is currently tasked with developing just and reasonable rates for a population of ratepayers financially distressed by a nationwide pandemic.

OCA contends that denying Columbia’s requested rate increase due to the current societal economic conditions would be an appropriate and valid exercise of the Commission’s authority in this proceeding. Section 315(a) of the Public Utility Code places the burden of proving the reasonableness of a proposed rate on the utility. 66 Pa.C.S.A. § 315(a). The evidence necessary to meet that burden must be substantial[35] and OCA avers Columbia has not proven that a rate increase would be just and reasonable at this time.

OCA asserts that the Commission would be fully within its authority to reject Columbia’s rate increase request due to the current economic conditions because (1) rates would not be confiscatory as it is projected that the Company would continue to earn a profit in the near future and (2) simply put, it is only the opportunity to earn a fair return that a utility is entitled. As the U.S. Supreme Court held in *Hope*, the “lowest reasonable rate” is one that is not confiscatory in the constitutional sense.[36] OCA insists its calculations demonstrate that, at Columbia’s current rates, it will still earn a 5.52% rate of return. *See* OCA Attachment 1, Rate Case Table, Zero Increase. While this may not be a desirable rate of return for the Company, it is sufficient compensation in the constitutional sense and fully within the Commission’s authority.

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[34] *Id.* at 124.

[35] *Lower Frederick Twp. Water Co. v. Pa. Pub. Util. Comm'n*, *supra*.

[36] *Hope*, 320 U.S. at 586.

iii. The Principles of Public Utility Regulation Lend Support to OCA's Claim That Increasing Rates During This Financially Challenging Time For Ratepayers Would Not Lead to Just and Reasonable Rates.

To understand how just and reasonable rates are affected by a major economic event such as the COVID-19 pandemic, OCA, through its witness, reviewed the regulated-monopoly arrangement of public utilities in the United States and the determination of just and reasonable rates. OCA posits that, "[a]t its core, regulation is designed to protect utility consumers from what otherwise would be the unfettered power of a monopoly to set prices and the conditions of service." OCA St. 1 at 4. Accordingly, utility regulators should attempt to set rates within the "zone of reasonableness" which captures the interests of the ratepayers, the utility's investors, officers and employees, and local governments whose residents are served by the utility. *Id.* at 5-6. Under normal conditions, there is often an area of overlap of interests between utility customers and the utility, including its investors. *Id.* Within that area, regulators are provided a range of rates that utility customers would be willing and able to pay for service and investors would consider a reasonable return on their investment. *Id.* However, OCA contends, under certain conditions, the two ranges may not overlap—creating no "zone of reasonableness" at all. *Id.* When there is no zone of reasonableness, OCA asserts the Commission, as regulators, is tasked with setting rates outside of either one of the ranges, or outside of both. *Id.* Under the above-described economic conditions faced by Columbia's customers brought on by the pandemic, the range of rates the customers would be willing and able to pay for service has shifted away from the range of rates which would, in the eyes of the utility, provide a reasonable return on investment.

OCA argues Columbia witness, James H. Cawley, mischaracterizes OCA's recommendation as a proposal that utility rates should "yo-yo" with changing economic conditions. Columbia St. 16-R at 14-15. OCA disagrees and asserts its recommendation calls for rate stability during a time of severe economic dislocation for many of Columbia's customers. OCA St. 1-S at 4. OCA notes Mr. Cawley cited to the U.S. Supreme Court's *Hope* decision which stated for rates to be just and reasonable, they must balance the interests of both the consumers and the investors. CGP St. 16-R at 5. Given the description of significant income

loss experienced in Columbia's service territory discussed in Section III (B) above, OCA submits that keeping rates constant—at which the Company will still enjoy a 5.52% overall rate of return—is a reasonable balance and a lawful exercise of Commission authority. *See* OCA Attachment 1, Rate Case Table, Zero Increase. While OCA acknowledges 5.52% overall is not the profit Columbia would prefer, OCA points out this rate of return is higher than the cost of debt and it is unreasonable for the Company to have a higher return at this time. *Id.* OCA re-emphasizes that this stabilized rate is only temporary until future conditions become known.

OCA contends regulation must always consider current economic conditions. OCA points out that if the Commission's exercise of regulation is intended to substitute for market forces, then the Commission should recognize competitive businesses cannot sustainably raise prices when customers' incomes decrease significantly, except for those commodities experiencing significant imbalances of supply and demand due to the pandemic. In short, OCA argues the rate base - that might have been "just and reasonable" rate earlier this year - may now be unreasonable today. OCA St. 1 at 9. OCA stresses that regulation is not designed to insulate the utility or its investors from normal market forces, technological improvements, or general economic conditions. OCA notes the utility may not be able to recover its costs if these changing market forces significantly reduce the demand for service. OCA contends that circumstance is not an example of a failure to regulate but, instead, is a natural evolution of the market, because a business fails when it cannot keep up with changes in consumers' preferences or respond to technological innovations.

OCA argues that rates may need to be reduced if economic conditions change in such a way that the rates are unaffordable to many customers and this reduction is necessary to ensure the rates are just and reasonable from the perspective of the customers. *Id.* at 5. Thus, OCA contends that rejecting Columbia's requested rate increase at this time is an appropriate result during the COVID-19 pandemic, is an appropriate response to the market imbalance caused by Columbia's customers' reduced ability to pay utility bills, and, if done, Columbia would still have sufficient income.

iv. The projections in Columbia's Mid-Pandemic Filing Cannot Be Given Any Credence in Determining Future Rates in a Vastly Different Economic Environment.

OCA contends that Columbia's FPFTY projections lack reliability given the projections were submitted just weeks after the pandemic reached its service territory, and the Commission should reject the rate increase request on that basis. OCA notes Columbia filed on April 24, 2020, when the entire world, and its service area specifically, was being devastated with the worst pandemic in a century. While OCA acknowledged it can take months to prepare a rate filing, and further acknowledged Columbia prepared its case assuming "business as usual," OCA argues there was no compelling reason for Columbia to actually file the case because, to state the obvious, life and business in the Company's service territory are now anything but normal. OCA St., 1 at 9.

OCA submits that the changes and uncertainties in FPFTY assumptions, including interest rates, oil prices, inflation, and how much natural gas Columbia will sell to which customer classes, could not be accurately projected in the months leading up to Columbia's April filing. *Id.* at 25. Additionally, the use of the FPFTY is discretionary and the Commission may, in its discretion, adjust the Company's rates on the basis of its FPFTY data evidencing the accuracy of its estimates.[37] OCA avers that the Commission cannot have any confidence in Columbia's projections about the FPFTY due to the high level of uncertainty occasioned by the pandemic. OCA insists the Commission would not be acting in a just or reasonable manner if it set rates based on Columbia's assumption in late April because "[v]irtually every assumption is changing as a result of the pandemic." *Id.* (emphasis added).

Accordingly, OCA argues strenuously it is reasonable and perhaps even required for the Commission to reject Columbia's request to increase its rates because, first and foremost, the Commission cannot have any certainty about the appropriate, ongoing level of expenses,

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[37] Section 66 Pa.C.S.A. 315(e) provides: Whenever a utility utilizes a future test year or a fully projected future test year in any rate proceeding and such future test year or a fully projected test year forms a substantive basis for the final rate determination of the commission, the utility shall provide, as specified by the commission in its final order, appropriate data evidencing the accuracy of the estimates contained in the future test year or a fully projected future test year, and the commission may after reasonable notice and hearing, in its discretion, adjust the utility's rates on the basis of such data. (emphasis added).

interest rates, consumption patterns, and the numerous other factors that affect the determination of an appropriate level of rates. Given the devastating financial impacts on customers, the uncertain economic future of the next few years and the unreliability of the projections, OCA contends the Commission must not treat this case as "business as usual." Almost no other business in Columbia's service area currently conducts business as usual. Residential consumers currently use Columbia's services differently than they did during normal circumstances, now that most are at home 24 hours per day, 7 days a week, preparing every meal at home, at the very least. OCA respectfully challenges that the Commission cannot focus on Columbia's historic costs, or on cost projections prepared before the pandemic, and assume the resulting rates will be "just and reasonable." OCA argues, instead, that the Commission must focus on what rates are reasonable for consumers to pay under these extraordinary conditions. *Id.* at 18-19.

In addition, OCA points out this rate increase was requested at a time of extreme uncertainty not only in terms of the economy at large, but also in terms of projected customer usage, projected expenses, projected capital expenditures, and revenue required to provide service. In addition to the effect of the COVID-19 pandemic on the Company's projections, OCA identified the lack of documentation and/or lack of convincing evidence which adds a separate layer of speculation to the Company's claimed costs. OCA St. 2-S at 3. OCA submits the Commission should not accept Columbia's projections and deny Columbia's requested rate increase.

d. Conclusion

With an unprecedented number of ratepayers unemployed and/or experiencing income loss—during this pandemic and in the foreseeable future—OCA concludes it is not reasonable to expect ratepayers currently struggling to pay their utility bills to have the income needed to cover increased natural gas bills if higher rates go into effect, especially with winter months approaching. Ratepayers are suffering during this pandemic and granting a request for an increase in rates, as if Columbia should be shielded from the economic impacts caused by this pandemic, would not be just and reasonable. OCA insists Columbia could continue operations, recover its expenses at present rates, and earn a profit in the near term with a 5.52% rate of

return. *See* OCA Attachment 1, Rate Case Table, Zero Increase. OCA requests that the Commission find that rates at present rates will provide the Company with sufficient compensation for the near future and deny Columbia's proposed rate increase as it not an appropriate time to raise the rates paid by Columbia's customers who are currently struggling to navigate these turbulent economic times.

4. OSBA's Position

a. The Proposed Net Increase

OSBA asserts that Columbia frequently stated in this proceeding that Columbia requests an overall base rate revenue increase of $100.4 million. When evaluating the magnitude of the rate increase, OSBA contends the Commission should be aware that Columbia did not include approximately $20 million in Distribution System Improvement Charge (DSIC) revenues, which revenues will be rolled into rates in January 2021.[38] Simply put, Columbia requests herein an additional $80.4 million revenue increase on top of the rate case. OSBA notes, for example, that awarding the Company a $30 million base rate increase will provide the Company with an annual net increase in revenues of $10 million over the status quo.

b. The COVID-19 Pandemic

OSBA argues that this proceeding is not a "traditional" rate case such as might have taken place in early 2019. This rate case takes place when Columbia's ratepayers have been devastated by a pandemic. OSBA opines "this rate proceeding takes place in the extraordinary circumstances of a pandemic, which is having a devastating impact on residences and many small businesses in Pennsylvania," a fact which OSBA notes the Commission does not need OSBA to elaborate.[39] OSBA contends, since the Company chooses to turn a blind eye to

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[38] Columbia Statement 9-R at 5-6.

[39] OSBA Statement No. 1 at 3.

the pandemic, the ALJ and the Commission will be forced to remind Columbia of the fact that a pandemic does in fact exist.

c. The Requested Return on Equity

OSBA argues that Columbia, by requesting a Return on Equity of 10.95%, ignores the changes in the financial markets wrought by the COVID-19 Pandemic. OSBA calculates a Return on Equity in the range of 7.63% is appropriate for Columbia.

5. CAAP's Position

a. Introduction

CAAP notes it intervened in numerous rate cases, including the last rate case filed by Columbia, but CAAP asserts it has never taken a position previously whether a requested rate increase should be granted. However, CAAP contends herein the Company's request for a rate increase should not be granted because of the COVID-19 pandemic and the impact it has had. CAAP points out that impact is continuing, and, as of November 2020, cases are on the rise in the United States and in this Commonwealth, with all indications that the virus and its impact will continue for some time. CAAP contends a large part of the impact has been economic and low-income individuals have been hit particularly hard.

CAAP argues that the pandemic is an unusual event - hopefully a once in a lifetime event - and as such should compel the Commission to take the unusual step of denying this request for a rate increase. In the alternative, CAAP suggests the Commission should require the Company to provide measures that would give its low-income ratepayers the ability to lessen their utility costs through conservation. Specifically, CAAP recommends the Commission deny the Company's request to increase its fixed monthly residential customer charge because this increase in a fixed charge lessens a low-income ratepayer's ability to conserve energy and reduce their bill. In addition, CAAP asserts that, should the Commission grant the rate increase, there should be increases in funding in the Company's universal service

programs as these additional measures would enable a low-income customer to conserve energy and lessen their bill. This action would be necessary to make any rate increase 'just and reasonable.'

b. CAAP opposes rate increase

CAAP argues the Commission should deny the rate increase in this case based on the provisions of Section 1301(a), which provides in relevant part that:

> Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.[40]

CAAP notes the requirement that utility rates be just and reasonable, generally speaking, mandates proposed rates do not unreasonably benefit the utility's investors at the expense of utility ratepayers,[41] and the Commission has broad discretion in determining whether rates are reasonable. CAAP contends any rate increase to Columbia in this proceeding would not be just and reasonable at this time due to the drastic economic impact of the COVID-19 pandemic.

CAAP asserts that, as of the week ending October 4, 2020, the Pennsylvania Department of Labor statistics shows that 2,208,298 Pennsylvanians filed initial claims for unemployment compensation benefits since March 15, 2020.[42] As things stand now, the ongoing course of this virus and its corresponding economic impacts will certainly continue for some time.

However, CAAP contends that under the Company's proposal, a typical residential customer using an average of 70 therms per month will see their bill increase from

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[40] 66 Pa.C.S.A. § 1301(a).

[41] *Popowsky v. Pa. Pub. Util. Comm'n.*, 669 A.2d 1029 (Pa.Cmwlth. 1995), *app. granted in part*, 680 A.2d 1165 (Pa. 1996), *rev. in part,* 706 A.2d 1197 (Pa. 1997).

[42] https://www.uc.pa.gov/COVID19/Pages/UC-Claim-Statistics.aspx (last visited Nov. 30, 2020).

$87.57 to $103.19, or an increase of 17.84%. CAAP argues that size of increase is significant under any economic conditions, but the increase is particularly difficult under the current and continuing circumstances. Further, CAAP notes the Company has 404,910 residential customers and estimates that nearly 25% of them, or 97,268, are low-income.[43] CAAP argues a rate increase of nearly 18% imposed upon nearly 25,000 low-income customers would be particularly devastating to that customer class.

CAAP asserts the Commission reduced the maximum energy burden under a utility's Customer Assistance Program (CAP), in its September 2019 Order in regard to the 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa.Code §§ 69.261-69.267 (M-2019-3012599). CAAP notes that, therein, the Commission found the percentage of income spent on energy for low-income customers was too high. Thus, the Commission reduced the maximum energy burden for low-income customers under CAP.

CAAP also notes the reduction in the maximum energy burden was based on economic data that predated the COVID-19 pandemic and its resulting economic impacts. CAAP asserts the Commission can logically conclude the energy burden for residential ratepayers has increased with the loss of income due to the pandemic and would only be exacerbated for the Company's residential customers should a rate increase be granted in this case.

6. CAUSE-PA's Position

a. Introduction

CAUSE-PA argues the Commission should reject Columbia's proposed rate increase in its entirety at this time due to the devastating economic impact of the COVID-19 pandemic. CAUSE-PA asserts Columbia's current levels of unaffordability will be worsened by any rate increase, and contends the Commission must squarely address this unaffordability to ensure that economically vulnerable consumers can afford to connect to and maintain service to

[43] CAAP St. No. 1 at 3.

their home – especially in the face of the ongoing pandemic. CAUSE-PA notes several witnesses presented recommendations targeted at addressing these affordability issues, but the Company opposed the vast majority of these vitally important measures. Thus, CAUSE-PA argues the impetus to protect vulnerable consumers now rests upon the Commission to ensure that Columbia's customers are protected from categorical rate unaffordability and the corresponding inaccessibility of service.

CAUSE-PA urges the Commission to reject Columbia's proposed rate increase until the full extent of the economic impact of the COVID-19 pandemic in Pennsylvania can be understood and accounted for, because it is unjust and unreasonable to raise rates as the pandemic still unfolds and Pennsylvania's economic future is in flux. CAUSE-PA asserts Columbia's low-income customers already struggled with unaffordable rates before the pandemic – and before Columbia proposed to substantially raise the monthly cost to consumers to stay warm and safe in their home. These same households have experienced the most profound impacts from the pandemic – with the economic impact falling hardest on low-income communities and communities of color. CAUSE-PA recommends the Commission take steps to ensure that all consumers – including those from Pennsylvania's most vulnerable communities – can afford to connect to and maintain service, especially in the midst of the pandemic.

CAUSE-PA argues Columbia's position – to discount the impact of the Pandemic, asking the Commission to ignore the current reality and base its decision on calculations from the pre-COVID era - is a tone deaf approach, out of touch with the realities facing thousands of Columbia's residential customers – so many of whom are either out of work or have suffered substantial reductions in wages. CAUSE-PA asserts the record clearly demonstrates Columbia's universal service programs are insufficient to meet the needs of low-income consumers before the onset of the pandemic, which need has no doubt grown exponentially since Columbia filed this case.

CAUSE-PA asserts it is inappropriate to raise natural gas rates at this time. Instead, CAUSE-PA argues the Commission should require Columbia to revise and improve its programming to address the lack of affordability for low-income customers at current rates,

including improving their ability to achieve meaningful bill reductions through conservation. Accordingly, CAUSE-PA argues the Commission should reject the proposed rate increase, and the Commission should order Columbia to improve its low-income programs and consumer protections to ensure universally accessible service consistent with the applicable law and policy.

b. CAUSE-PA's position

CAUSE-PA notes that the United States Supreme Court has held the determination of just and reasonable rates through the rate-making process requires a *balancing* of investor and consumer interests, concluding that **"regulation does not insure that the business shall produce net revenues."**[44] The COVID-19 pandemic poses unprecedented economic challenges for Pennsylvania, and these challenges have fallen especially hard on the most vulnerable communities. (CAUSE-PA MB at 7-8). In addition, CAUSE-PA asserts that COVID-19 is one of the most severe health and economic crises in our lifetime that has substantially impacted Pennsylvania's low-income and minority populations. (CAUSE-PA MB at 6-10).

CAUSE-PA counters Columbia's argument that constitutional and statutory law require the Commission to make a determination of the just and reasonable rates based on the ratemaking formula, and that denying a rate increase because some customers may struggle to pay the determined rates does not comply with the constitutional and statutory standards. (CPA MB at 18-19). CAUSE-PA contends the currently existing economic circumstances arose subsequent to the calculation of Columbia's rate proposal and there is nothing unconstitutional about giving appropriate weight to the economic considerations existing outside of the ratemaking formula.[45]

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[44] *Federal Power Comm'n v. Hope Natural Gas Co.*, s*upra*. (*emphasis added*).

[45] *Popowsky v. Pa. Pub. Util. Comm'n* v. *Pa. Pub. Util. Comm'n*, 665 A.2d 808 (Pa. 1995) (appeal of Metropolitan Edison Co.)

CAUSE-PA points to the Pennsylvania Supreme Court decision in *Popowsky v. Pa. Pub. Util. Comm'n*, 665 A.2d 808, 812, 542 Pa. 99, 108 (1995), where the Supreme Court held that:

> There is ample authority for the proposition that the power to fix "just and reasonable" rates imports a flexibility in the exercise of a complicated regulatory function by a specialized decision-making body and that **the term "just and reasonable" was not intended to confine the ambit of regulatory discretion to an absolute or mathematical formulation** but rather to confer upon the regulatory body the power to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors ***consonant with constitutional protections applicable to both***.[46]
>
> **Further, the PUC is obliged to consider broad public interests in the rate-making process**.[47]

CAUSE-PA argues it is inappropriate to raise rates for natural gas in the midst of the COVID-19 crisis. Natural gas is necessary for heat, cooking, and hot water, and all of these functions are vital to curbing the spread of the pandemic and ensuring that Pennsylvanians are safe in their homes. (CAUSE-PA MB at 6; CAUSE-PA St. 1-SR at 3-4). CAUSE-PA notes that well over 2 million Pennsylvanians filed for unemployment since mid-March, when the onset of the pandemic caused Pennsylvania's unemployment claims to skyrocket.[48] From mid-March through late August), approximately 38 percent of Pennsylvania's workforce filed an unemployment claim.[49] From February 2020 to July 2020, the unemployment rate for counties in Columbia's service territory rose 186% and currently stands at 13.1%.[50] As of mid-July, the unemployment rates in the counties served by Columbia ranged from 8.8% to 19.2%.[51]

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46 *Id.*, (quoting, *Pa. Pub. Util Comm'n v. Pa. Gas & Water Co*., 492 Pa. 326, 337, 424 A.2d 1213, 1219 (1980)).

47 *Id.* (*citing Pa. Elec. Co. v. Pa. Pub. Util. Comm'n*, 509 Pa. 324, 331, 502 A.2d at 134 (1985)).

48 CAUSE-PA MB at 7; OCA MB at 14-15.

49 OCA MB at 14.

50 OCA MB at 14.

51 OCA MB at 14.

CAUSE-PA asserts the unprecedented economic impact hit low wage workers the hardest and many who were not previously low-income dropped into that category due to a reduction in wages.[52] These customers already struggled to afford service and were disproportionately payment troubled before the pandemic. CAUSE-PA contends the unaffordability across these groups has grown more pronounced since the onset of the pandemic – with many economists suggesting economic losses will persist over the long term. CAUSE-PA contends Columbia's customers should not be subjected to any rate increase until Columbia develops a plan to deal with the massive additional arrearages accrued due to the pandemic and the underlying affordability issues that put these customers in the position to fall so far behind.[53]

CAUSE-PA criticizes Columbia's argument that, if the Commission rejects this rate increase, the rejection would create a safety risk by denying investors a fair rate of return, which would reduce incentive to invest in construction projects. (CAUSE-PA CPA MB at 21-23). CAUSE-PA asserts no party recommended Columbia never be allowed to raise rates, only that now is not the appropriate time, as Pennsylvanians grapple with a bleak economic future. (CAUSE-PA MB at 10, OCA MB at 14; CAAP MB at 3). CAUSE-PA notes OCA asserted **it is clear in the record that Columbia could continue operations, recover all of its expenses, and earn a profit <u>with no revenue increase</u>**. (OCA MB at 13, 29). CAUSE-PA agrees with OCA's argument that Columbia could defer construction not necessary for safety or, "Columbia could file another rate case after the pandemic once the 'dust settles' and reliable and complete evidence of the full effect of the pandemic will be available to determine just and reasonable rates." (OCA MB at 13-14).

CAUSE-PA argues both its witness, along with OCA's and CAAP's witnesses, noted there are many inaccuracies to the Company's argument that, rather than deny the rate increase, "a more focused solution to the real problem of customers losing income is the

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52 CAUSE-PA MB at 6-10, 35-36, 43-45; OCA MB at 15.

53 *See* Public Utility Service Termination Proclamation of Disaster Emergency – COVID19, PUC Docket No. M-2020-3019244, <u>Response of Columbia</u> (filed October 15, 2020).

expanded customer assistance programs that the Company already has designed and implemented to assist affected customers."[54] While CAUSE-PA agrees enhanced customer assistance is necessary and appropriate to address the economic impact of the pandemic, it asserts that the incremental steps Columbia has taken to address the crisis are wholly inadequate. Indeed, CAUSE-PA argues Columbia's assertion is contradictory, as Columbia has, in fact, opposed nearly all recommendations of CAUSE-PA and other parties that would have provided meaningful relief to customers economically impacted by the pandemic. (CPA MB at 98-114).

CAUSE-PA contends that the inadequacies of Columbia's response are evidenced by the continued growth of arrearages, especially among low-income customers and its disproportionate CAP termination rate. (CAUSE-PA MB at 8-10). In reality, Columbia's existing programs are categorically unaffordable, far exceeding the Commission's established affordability standards, and enrollment in the CAP program has remained flat for many years, factors which bely Columbia's argument that it has in any way advanced or expanded existing supports to offset the economic impact of rates on its most vulnerable customers. (CAUSE-PA MB at 11-24).

7. CII's Position

CII notes that Columbia began seeking almost annual rate increases in 2008, with nine increase requests in the past twelve years (CII St. at 6), and during that time frame Columbia implemented a Distribution System Improvement Charge (DSIC), which permits Columbia to collect additional dollars from customers in between base rate proceedings. *Id.* CII notes Columbia filed for a $100.4 million rate increase on April 24, 2020, which was approximately one month after the COVID-19 pandemic began to impact Pennsylvania, which neither referenced the impact of the pandemic on Columbia's proposed rates nor reflected the impact of the pandemic on the Company's customers, especially its large commercial and industrial customers, such as CII members. *Id.* at 7. CII agrees with OCA that, while Columbia prepared this case assuming "business as usual," there was nothing that compelled the Company

[54] Columbia MB at 18. *See also* CAUSE-PA MB at 11-28; CAUSE-PA St. 1 at 16-26, 29-32; OCA St. 1 at 12-28; and CAAP St. 1 at 5-8.

to actually file the case. OCA St. No. 1 at 9. As a result, CII asserts this proposed rate increase may have significant impacts on Columbia's customers, but this time is not the time to impose higher costs on either people or businesses. OCA St. 1 at 9.

CII points out that one member of CII, Knouse Food Cooperative, has faced ongoing challenges during the course of this pandemic. CII St. 1 at 7. For instance, Knouse requires personal protective equipment (PPE) for its employees, but this equipment has been difficult to obtain and has increased in price. Knouse needed to engage extra personnel to implement procedures such as daily temperature checks. Knouse faces challenges in determining the size of its work force on a daily and weekly basis due to illness and quarantine requirements stemming from the pandemic. Moreover, Knouse cannot determine the future impact of the pandemic since Knouse's processing is dependent upon the availability of crops, but uncertainty remains as to whether farmers will have the workforce needed to harvest crops. *Id.* at 7-8.

CII argues large industrial and commercial customers, such as Knouse, have had to contend with Columbia seeking rate increases on a constant basis, compounded with the application of Columbia's DSIC. *Id.* at 8. Moreover, Columbia's proposal in this filing is especially excessive, as the Company proposed a rate increase of over $100 million. *Id.* As noted by OCA, ratepayers are not living under normal conditions, and economic conditions continue to remain a concern for many customers within Columbia's service territory. OCA St. No. 1 at 23.

Accordingly, CII recommends the Commission deny Columbia's request to increase rates at this time because now is not the time to impose additional, unavoidable costs on consumers. OCA St. 1 at 22-23. Moreover, Columbia's filing is based on data for the Company under normal conditions. The Commission cannot completely rely on that data for purposes of implementing a rate increase at this time. Implementing a rate increase for Columbia at this time would be neither just nor reasonable. Rather, the Commission should deny Columbia's rate increase in its entirety and keep Columbia's existing rates in effect. In return, Columbia should have the opportunity to file another rate increase request in 2021, at which time more certainty

regarding the impact of the COVID-19 pandemic hopefully may exist both in terms of the impact on customers and the data within Columbia's filing.

8. PSU's Position

PSU did not take a position on the amount of increase the Company requested or the specifics thereof. PSU asserted it did 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.

9. ALJ's Recommendations on Columbia's Overall Request for Rate Increase

Columbia Gas seeks a $100.4 million increase to its revenue requirement <u>and</u> an increase in the fixed residential customer charge, from $16.75 to $23.00 monthly. This proceeding is unique among typical base rate proceedings because half of the parties advocated that the Commission should deny the increase request on its face, alleging Columbia Gas' failure to consider and appreciate the dire straits in which its customers and the Commonwealth find themselves, and asserting the pandemic has altered the socio-economic landscape of Columbia Gas' customers so drastically, that an increase would result in unjust and unreasonable rates. While ratepayers of Columbia Gas and across all of Pennsylvania's public utilities struggle to pay for health care, attempt to avoid contracting COVID-19 and remain cloistered within their homes from which they struggle to avoid eviction, Columbia Gas insists it cannot continue to provide safe and reliable service without a $100.4 million rate increase obtained from ratepayers, many of whom have lost their jobs, used up their savings and cannot actively re-enter the workforce due to scarcity of jobs and/or fear of contracting a deadly virus.

Columbia Gas filed this increase request, as well as its request to increase the residential customer charges, approximately 5 weeks after the Commonwealth became mired in fighting COVID-19 and an emergency declaration was issued by Pennsylvania's governor which shut down businesses and required citizens to remain at home. Columbia Gas based its filing on data from a time period months earlier when Columbia Gas and the Commonwealth functioned

under normal conditions, but filed the request after the COVID-19 pandemic forced the closure of businesses, required the Commonwealth's citizenry to isolate at home and had already led to the death of many people including people within Columbia Gas' service territory. Columbia Gas did not alter its filing or its requests in response to the COVID-19 pandemic. Despite knowing the COVID-19 pandemic altered normal functioning in arguably every segment of society while adversely impacting finances for almost every person and entity within the Commonwealth, Columbia Gas neither amended its requests downward nor requested a "stepped-up" approach to implementing an increase.

Half of the parties in this proceeding (OCA, CAAP, CAUSE-PA and CII) argued strenuously against the Commission permitting Columbia Gas to receive any increase until such time as the consequences of the pandemic can be ascertained, at which time the Commission can move forward in a coordinated manner to address the concerns and issues for all public utilities, ratepayers, Commonwealth citizens, investors and the public interest. Many opinions received from these parties spoke with harsh, condemning language rarely seen by this ALJ in a regulatory proceeding - about Columbia Gas and its arguments in support of filing a base rate case during a pandemic. No party herein recommended Columbia Gas should never be allowed to raise rates, instead arguing that raising rates during the present times is inappropriate and contrary to the public interest, as Pennsylvanians grapple with a bleak economic future.

Those parties advocated that the Commission should not rely on predictions based on data collected prior to the pandemic. To them, Columbia Gas' argument – that a rejection of the increase will expose customers and the public to safety risks because investors will be denied a fair rate of return – belied the fact that Columbia Gas' investors still receive a rate of return, though perhaps smaller than expected, while investors in other areas of the financial markets may not receive as much due to the downturn in the marketplace caused by COVID-19. Columbia Gas' ratepayers, both individuals and businesses, have been devastated by the pandemic.

These advocates spoke passionately about the need to establish utility rates that are just, reasonable and do not unreasonably benefit the utility's investors at the expense of

unreasonably burdening the utility's ratepayers. The parties stressed that the Commission has broad discretion in determining whether rates are reasonable and Columbia Gas' position – to discount the impact of the pandemic and base its decision on calculations from the pre-COVID-19 era - is unreasonable and unjust, especially for residential customers who may be either out of work, have suffered substantial reductions in wages and/or are attempting to make ends meet with the loss of income due to job loss or death.

As noted by CAUSE-PA, over 2 million Pennsylvanians filed for unemployment starting in mid-March, when the onset of the pandemic caused Pennsylvania's unemployment claims to skyrocket. From mid-March through late August, approximately 38 percent of Pennsylvania's workforce filed an unemployment claim. From February 2020 to July 2020, the unemployment rate for counties in Columbia Gas' service territory rose 186% and was at 13.1%, as of October 2020. As of mid-July, the unemployment rates in the counties served by Columbia Gas ranged from 8.8% to 19.2%. At a time when Pennsylvanians struggled to remain safe and healthy at home, the four objecting parties noted Columbia Gas petitioned to raise rates for natural gas service. The base rate request, for these parties, was unreasonable as a matter of fact and law and the Commission did not have to review every element of the rate base in order to determine Columbia Gas' request was unreasonable. The objecting parties noted that particularly troubling was that Columbia Gas is requesting a significant $100.4 million, at a time when Pennsylvanians, many struggling financially, need natural gas for heat, cooking, and hot water to curb the spread of the pandemic and ensure Pennsylvanians are safe in their homes and when returning to work.

On point on this issue is the decision from the Pennsylvania Supreme Court decision in *Popowsky v. Pa. Pub. Util. Comm'n*, 665 A.2d 808, 812, 542 Pa. 99, 108 (1995), wherein the Supreme Court held the Commission must consider the broad public interest during a base rate proceeding, and in doing so stated:

> There is ample authority for the proposition that the power to fix "just and reasonable" rates imports a flexibility in the exercise of a complicated regulatory function by a specialized decision-making body and that **the term "just and reasonable" was not intended to confine the ambit of regulatory discretion to an absolute or mathematical formulation** but

> rather to confer upon the regulatory body the power to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors ***consonant with constitutional protections applicable to both***.

Id. (emphasis added).

Columbia Gas argues the Commission will be inserting a new ratemaking standard that base rate requests can be denied simply because a sufficient number of customers may have trouble paying an increased rate. Columbia Gas argues that rejecting any increase based on some subjective assessment fails to balance the interests of customers and investors, and that investors will take their investment dollars to other states in the long term if the Commission does not grant Columbia Gas' request for a $100.4 million increase in January 2021. Columbia Gas cites to constitutional case law and testimony from a former Commission Chairman to buttress its claim that the Commission must refuse to deny the increase or else safety issues will arise in the future.

Columbia Gas is correct that the law permits a utility to approach the Commission with an increase request for the purpose of ensuring that rates are just and reasonable and cover all prudently incurred costs. However, no constitutional provision, statute, regulation or policy statement guarantees a utility will receive a requested base rate increase. In fact, there is no guarantee the utility will receive an approved rate which gives the utility an opportunity to earn a return for the investors. Though not often seen, the Commission review of an utility request to increase the base rate may find the interests of the ratepayers and the public interest require a decreased rate for the utility because, upon review of all costs, the Commission determines the utility requires less than it currently receives.

Columbia Gas is correct that investors will invest their money elsewhere if the utility has no opportunity to earn a return. No party advocated Columbia Gas should not receive any return. Instead, the four opposing parties argued the just and reasonable actions herein are that Columbia Gas should be able to provide safe, reliable service with the current return in

place, although some expenses might have to be delayed until after the pandemic eases. Those parties argued this pandemic is of such unprecedented proportions that an unprecedented response is necessary from the Commission.

Columbia Gas is incorrect that the Commission must review all elements of a base rate request before the Commission is able to determine if a requested rate is "just and reasonable." As indicated in *Popowsky v. Pa. Pub. Util. Comm'n*, 665 A.2d at 812, the Commission's regulatory discretion to determine if a requested rate is just and reasonable is not confined merely to "an absolute or mathematical formulation but rather to confer upon the regulatory body the power to make and apply policy." The Commission has the authority to determine a requested increase is unreasonable and will lead to an unjust and unreasonable rate for a utility's customers, based upon all surrounding circumstances including the presence of a far-reaching pandemic with fatal and disastrous consequences for, *inter alia*, Columbia Gas' customers.

Such a set of circumstances exists herein. Columbia Gas presented data and made future projections using data from before the pandemic. Columbia Gas was correct and permitted to make future projections using historic data in a base rate request. Unfortunately, to date, the pandemic has obscured its financial, economic and social impacts. Until the pandemic eases, it will be difficult, if not impossible, to use historic data to project into the future with any confidence or reliability about the accuracy of the projections. In April 2020, the Company, the Commission, the advocates and the ratepayers did not know the pandemic would worsen in late 2020. In late 2020, the Company, the Commission, the advocates and the ratepayers do not know how long the pandemic will last or what its impact will be on society or on business, or how many Pennsylvanians will not survive the pandemic. The base rate request is unreasonable not because a large number of customers cannot afford the bills, as alleged by Columbia Gas. The base rate request is unreasonable because Columbia Gas cannot prove the accuracy of its projections into the future using historic data predating this unprecedented pandemic.

The Commission must balance the interests of the utility, the ratepayers, the investors, <u>and</u> the public interest. The ALJ recommends that the Commission deny Columbia

Gas' request to increase the base rate, effective January 23, 2021. The evidence presented by all parties, including Columbia Gas, reflects that if the base rate remains unchanged, Columbia Gas will have an opportunity to earn a rate of return, albeit a smaller one, in a range from 4% to 6%. Long term that level of return would create a challenge for Columbia Gas to entice investors. However, Columbia Gas repeatedly insisted during this proceeding that it files base rate proceedings every year and has made a business decision to file new base rate proceedings every year going forward for the foreseeable future. If Columbia Gas is to be believed, and there is no reason to doubt it, the Company will start a new base rate filing in April 2021.

The reality is that Columbia Gas needs the Commission to help it navigate the tidal wave of issues created by the pandemic. The investors need Columbia Gas to work with the advocates so ratepayers can and do pay their monthly bills and a healthy return is realizable for the investors. Columbia Gas needs to readjust its perspective and work with the Commission and advocates to find solutions to the problems resulting from the pandemic. That is not to say that all the parties will agree with one another but that working together will produce better results for all.

It is within the authority of the Commission to deny this base rate increase on its face because the request will not lead to reasonable and just rates in the public interest. The Commission is authorized to require Columbia Gas to return with a new filing, and to require Columbia Gas, to collect specific data that will help Columbia Gas, the Commission, the advocates and the ratepayers to find the combination of rates, charges, fees and programs that will work best for Columbia Gas, its customers and its investors specifically, and the Commonwealth generally. This additional data will be essential to gauge the impacts this pandemic has had and will have on socio-economic income levels, percentage of customers in default due to late/non-payments, the amount of uncollectible debt and a myriad of other economic indicators of health among customers, businesses and the Commonwealth.

Accordingly, the ALJ recommends the Commission deny this base rate request, keep in place the rates, charges and tariff provisions, having been previously approved, and keep the current DSIC charge in place. However, recognizing that the Commission may choose not to approve this recommendation, the ALJ has reviewed the base rate request in its entirety and

provides a recommendation for the Commission to consider as an alternative if the Commission determines that the pandemic and its consequences do not justify an outright denial of Columbia Gas' base rate increase request. The ALJ does not recommend an alternative revenue requirement and rate of return because the mathematical calculation may change if the Commission agrees with some but not all of the recommendations for each proposal. The remainder of this Recommended Decision includes the parties' positions on seven major categories that are elements of a base rate, with the ALJ's recommendations included at the end of each category.

D. Parties' Briefing Positions Concerning Rate Base

1. Columbia Gas' Position

a. Plant in Service FPFTY Plant Additions

i. OCA's proposed use of a three-year average to set FPFTY Plant Additions

Columbia notes OCA proposed to disallow $76,983,000 of FPFTY plant additions. OCA M.B. at 29-30. Columbia argues OCA's proposal is without merit, will disrupt the Company's replacement of aging infrastructure and should be rejected because OCA offers no reason for its adjustment other than that FPFTY plant additions are greater than the average of the prior three years. OCA M.B. at 29. Columbia contends plant additions continue to increase as Columbia executes its LTIIP commitments to replace aging infrastructure.

The Company argues it has not overlooked the DSIC to recover infrastructure investments, despite OCA's assertions to the contrary. OCA M.B. at 30. Columbia argues it is OCA that seeks to use the DSIC as a partial substitute for the FPFTY, contrary to the Commission's holding in *UGI Electric*. Columbia M.B. at 34. Columbia contends the result would be a need for multiple rate increases in 2021 with the first to be effective in January 2021, and the second to be effective later in the year, as the DSIC is placed into effect for plant that was unjustifiably excluded from the FPFTY determination of plant in service.

Columbia contends OCA offers no evidence that Columbia's FPFTY plant additions are unsupported or overstated while, in contrast, it presented detailed information on its FPFTY Capital Budget. Columbia Ex. 108, Sch. 1; Columbia GAS-RR-014. The Company further contends OCA has not identified any projects that it asserts will not be completed in the FPFTY. *See UGI Electric* at 31. In addition, Columbia states it has an extensive track record of completing its Capital Budgets, and OCA did not propose the FPFTY projected plant additions be disallowed because the Company historically underspends its Capital Budget. OCA's adjustment should be rejected.

ii. Reporting requirement

Columbia notes BIE recommended Columbia provide a report by April 1 of 2021 and 2022 updating Columbia's Exhibit No. 108 for actual plant additions and retirements for the FTY and FPFTY.[55] Columbia does not oppose this recommendation, which has been included in prior Columbia rate case settlements. Columbia St. No. 6 at 14.

b. Cloud-Based Computing

Columbia notes no party opposed its proposal to include Cloud-Based Computing assets in rate base.

c. Depreciation Reserve

Columbia notes the only proposed adjustment to the Accrued Depreciation Reserve is with respect to OCA's proposal to reduce FPFTY net plant additions. Columbia

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[55] BIE states Columbia uses a 13-month FPFTY. I&E M.B. at 14. This is not an accurate statement. Columbia's FPFTY is the Twelve Months ending December 31, 2021. However, there is a one-month gap between the end of the FTY and the beginning of the FPFTY. This is due to the statutory definition of a FPFTY (66 Pa.C.S.A. § 315(e), and the definition of a FTY under the Commission's regulations. 52 Pa.Code § 53.53(b).

contends the adjustment to net plant additions is improper and so also is OCA's proposed adjustment to Columbia's Accrued Depreciation Reserve.[56]

d. ADIT

Columbia Gas notes the only proposed adjustment to accumulated deferred income tax (ADIT) is with respect to OCA's proposal to reduce FPFTY net plant additions. As it argued the adjustment to net plant additions is improper, Columbia Gas also argued OCA's proposed adjustment to ADIT is improper.

2. BIE's Position

Concerning reporting requirements, BIE recommends the Company provide the Commission's Bureau of Technical Utility Services (TUS) and BIE with an update to Columbia Exhibit No. 108, Schedule 1, by no later than April 1, 2021, which update should include actual capital expenditures, plant additions, and retirements by month for the twelve months ending November 30, 2020. In addition, BIE requests an additional update should be provided for actuals through December 31, 2021.[57] BIE's position is that there is value in determining how closely Columbia's projected investments in future facility comport with the actual investments that are made by the end of the FTY and FPFTY. BIE contends determining the correlation between Columbia's projected and actual results will help inform the Commission and the parties in Columbia's future rate cases as to the validity of Columbia's projections. BIE further avers these reports are especially important for Columbia to provide due to Columbia's use of a 13-month FPFTY because an annual report may not include the full thirteen months of actual rate base addition information.[58] BIE noted Columbia accepted BIE's recommendation in its

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[56] Columbia's depreciation expert, Mr. John Spanos, also explained that Mr. Effron oversimplified the process of computing depreciation accrual and the accrued depreciation reserve, in part because proper depreciation accounting requires a determination of plant in service and reserve at an account level, because different assets have different depreciation rates. Columbia St. No. 5-R at 2-4.

[57] I&E Statement No. 3 at 3.

[58] I&E Statement No. 3 at 4.

rebuttal testimony from Company witness Schultz who stated Columbia was agreeable to providing an update to Columbia Exhibit 108, Schedule 1 on April 1, 2021 based on actuals for the twelve months ending November 30, 2020 and a further update on April 1, 2022 based on actuals through December 31, 2021.[59]

Concerning Cloud-Based Computing, Depreciation Reserve and ADIT issues, BIE did not propose a rate base adjustment.

3. OCA's Position

a. Plant in Service

OCA notes Columbia projects net plant additions (gross plant additions less retirements) equal to $280,735,000 in 2020 and $338,559,000 in 2021. Columbia Exhibit 108, Schedule 1. OCA submits that, while the forecasted plant additions for 2020 are in line with the plant addition amounts in 2018 and 2019, the projected cost of plant additions for 2021 is significantly higher in comparison.

In direct testimony, OCA recommends using the average of plant additions for the years 2018-2020 (i.e., $261,776,000) as the estimate of plant additions in 2021. OCA points out this amount is $76,783,000 less than the net plant additions forecasted by Columbia. Accordingly, OCA recommends reducing the plant in service included in the 2021 FPFTY rate base by $76,783,000 and reducing the related test year balances of depreciation reserve and accumulated deferred income taxes. These adjustments result in a net reduction to the test year rate base of $72,303,000[60] as well as a reduction to test year depreciation expense of $1,958,000.

OCA noted Columbia countered that such adjustments "would jeopardize the Company's ability to maintain a safe and reliable system and jeopardize the Company's ability to

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[59] Columbia Statement No. 6-R at 3.

[60] This net reduction to the test year rate base was offset by the related test year balances of depreciation reserve and accumulated deferred income taxes. OCA St. 2 at 7.

meet its LTIIP commitments" and overlooks the availability of the DSIC for the Company to recover infrastructure investments that go beyond OCA's projection. Columbia St. 14-R at 7. Columbia argued the adjustment also overlooks the actual level of expenditures the Company has achieved even before the COVID-19 pandemic.

However, OCA contends its proposed reduction is reasonable, given the fact that the Company's 2021 forecasted plant addition expenditures are significantly higher than the previous three years. Also, OCA asserts the reduction would guarantee the Company a recovery of plant additions in base rates that is more aligned with the Company's historic spending and, if the Company in fact spends more than that in investments, the DSIC is available to recover those expenses as necessary. OCA argues its recommendation prevents customers from paying for plant that is not in service if the Company's actual additions in the FPFTY are short of its forecast. Therefore, OCA submits that the Company's forecasted Plant Additions costs be decreased by $76,783,000 as shown in OCA St. 2-S, Schedules B-1 and C-2 and result in a net reduction of $72,303,000 to the test year rate base as shown in OCA St. 2-S, Table II.

b. Cloud-Based Computing

OCA points out the Company proposed to change the accounting of its Cloud-Based Computing expense to record the investments at Plant & Equipment accounts in 2020. Columbia St. No. 6 at 11-12. OCA did not brief this issue.

c. Depreciation Reserve

OCA submits the only OCA adjustment to the Company's depreciation reserve it recommends is a derivative adjustment relating to the adjusted plant in service. *See* OCA St. 2 at 7; *see also* OCA St. 2-S, Schedule B-1.

d. ADIT

OCA recommends the Company's ADIT should be reduced by $2,522,000 as shown in OCA St. 2-S, Schedule B-1, line 5. OCA points out the ADIT adjustment is related to Mr. Effron's adjusted plant in service and assumes changes in ADIT are proportional to changes in plant additions. *See*, OCA St. 2 at 7.

4. OSBA's Position

OSBA did not brief any issue concerning Rate Base.

5. CAAP's Position

CAAP did not brief any issue concerning Rate Base.

6. CAUSE-PA's Position

CAUSE-PA did not brief any issue concerning Rate Base.

7. CII's Position

CII did not brief any issue concerning Rate Base.

8. PSU's Position

PSU did not take a position on this issue.

9. ALJ's Recommendations on Rate Base

Plant in Service - The ALJ agrees with OCA that Columbia Gas' projected cost of plant additions for 2021 is significantly higher in comparison with the projections for 2018, 2019

and 2020. Columbia Gas did not prove why there is a significant increase or the need for the increase from 2020 to 2021. The ALJ recommends the Commission reduce the plant in service included in the 2021 FPFTY rate base by $76,783,000 (which is the average of the projections from 2018 through 2020) and reduce the related test year balances of depreciation reserve and accumulated deferred income taxes. This reduction is reasonable and in line with Columbia Gas' historical spending, and the reduction is in the public interest because customers will not have to pay for plant that is not service in the event actual additions are not as high as expected. The ALJ also notes the DSIC is available to recover these expenses if Columbia Gas does spend over this lowered projection, because the adjustment is a balance of the Company's need for plant additions with the customers' need to only pay for the plant additions that are in service.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission reduce the plant in service included in the 2021 FPFTY rate base by $76,783,000 and reduce the related test year balances of depreciation reserve and accumulated deferred income taxes.

Also, BIE recommended Columbia provide a report by April 1, 2021 and April 1, 2022 updating Columbia's Exhibit No. 108 for actual plant additions and retirements for the FTY and FPFTY. Columbia did not oppose this recommendation (Columbia St. No. 6, p. 14). I agree with BIE that the public interest benefits if the Commission and parties in the next base rate proceeding can determine how closely Columbia Gas' projected investments in future facility comport with the actual investments made by the end of the Future Test Year and Fully Projected Future Test Year, and to verify the validity of the Company's projections.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission require Columbia to provide TUS and BIE with an update to Columbia Exhibit No. 108, Schedule 1, by no later than April 1, 2021, which update should include actual capital expenditures, plant additions, and retirements by month for the twelve months ending November 30, 2020. A similar report should be required by April 1, 2022 for the twelve-month period ending December 31, 2021.

Cloud-Based Computing – Columbia Gas proposed to change the accounting of its Cloud-Based Computing expense to record the investments at Plant & Equipment accounts in 2020 (Columbia St. No. 6 at 11-12) and no party disagreed with this proposal. The ALJ recommends the Commission approve this proposal because adding additional details on its investments will give Columbia Gas the opportunity to show the Commission and parties to show investments with greater detail. That additional data verifies what costs are reasonable and it is in the public interest to have the additional information.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission approve Columbia Gas' proposal to change the accounting of its Cloud-Based Computing expense.

Depreciation Reserve – The Depreciation Reserve will change as the plant in service changes based on the Commission's determination above. Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ agrees with OCA's recommendation to use a derivative adjustment relating to the adjusted plant in service. *See* OCA St. 2 at 7; *see also* OCA St. 2-S, Schedule B-1.

ADIT – OCA proposed to reduce the ADIT by $2,522,000 as shown in OCA St. 2-S, Schedule B-1, line 5 based upon OCA's suggested adjusted plant in service and will allow for proportional changes in ADIT in comparison with plant additions. *See* OCA St. 2 at 7. The ALJ agrees the ADIT will change as, and if, the plant in service is adjusted. Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends this proposal is reasonable.

In addition, the ALJ recommends the Commission make the above adjustments Plant in Service, depreciation reserve and ADIT, the net effect of these base rate adjustments totals $72,303,000.

E. Parties' Briefing Positions Concerning Revenues

1. Columbia Gas' Position

Columbia asserts no party proposed adjustments to Columbia's *pro forma* FPFTY revenues at current rates, although at several places in its Main Brief, OSBA referenced the availability of the DSIC. OSBA M.B. at 3, 4. In rebuttal testimony, Columbia explained the DSIC is available to recover depreciation, return and taxes on DSIC-eligible investments added after the Company's eligible plant balances exceed the levels projected as of December 31, 2019 in Columbia's 2018 base rate proceeding. Columbia St. No. 9-R at 2-3. Columbia asserts it is now using the DSIC, however, by statute, the DSIC is limited to 5% of base rate revenues. 66 Pa.C.S.A. § 1358(a)(1). For Columbia, this means the DSIC can recover no more than $20.1 million, at the currently authorized DSIC return. Columbia St. No. 9-R at 6. Columbia explains this cap on the DSIC rate would not even allow Columbia to recover the depreciation, return and income taxes on its 2020 investments. Columbia M.B. at 23.[61]

Columbia argues OSBA's assertion - that, "[a]bsent this rate proceeding, the $20 million would, by operation of law, be included in the Company's tariff rates in January 2021," (OSBA M.B. at 4) - is inaccurate. Absent this rate proceeding, Columbia's DSIC would be capped at 5% of base rate revenues. By law, the DSIC may only be reset to zero "as of the effective date of new base rates that provide for prospective recovery of the annual costs previously recovered under the distribution system improvement charge." 66 Pa.C.S.A. § 1358(b)(1). Therefore, absent a base rate proceeding, or under OCA's no rate increase proposal, Columbia contends its DSIC would not be zeroed out, and the DSIC would remain unavailable to recover portions of Columbia's 2020 plant investments and all of its 2021 plant investments.

Columbia notes OSBA also observed Columbia's increase on a net basis is approximately $80.4 million, after recognizing the revenue available from the DSIC. OSBA

[61] In addition, the DSIC cannot be used to recover the depreciation, return and investment on non DSIC-eligible property.

M.B. at 3. Columbia agrees, under normal ratemaking procedures, the DSIC is reset to zero once new base rates are established. However, in accordance with normal practice that has been used since the DSIC was established, the rate case presentation establishes *base rates*, and whatever the DSIC rate actually is at the time new rates are established, that rate is reset to 0%. The base rate proceeding does not attempt to project revenues from the DSIC at the time new base rates become effective, because that rate is dependent upon factors such as actual plant in service and the authorized DSIC return rate.

2. BIE's Position

BIE did not propose any revenue adjustments.

3. OCA's Position

OCA did not propose any adjustments to the Company's FPFTY revenues under present rates.

4. OSBA's Position

OSBA notes Columbia's explanation that $20 million of its $100.4 million overall revenue increase request would otherwise be recoverable through the DSIC mechanism. OSBA points out that, absent this rate proceeding, the $20 million would be included in the Company's tariff rates in January 2021, by operation of law.[62]

5. CAAP's Position

CAAP did not propose any revenue adjustments.

[62] Columbia Statement 9-R at 5-6.

6. CAUSE-PA's Position

CAUSE-PA position on Revenue in this proceeding is explained in the section concerning its overall position on the Rate Increase.

7. CII's Position

CII did not brief any issue concerning Revenues except to assert that Columbia should not receive a rate increase at this time due to the impact of COVID-19 on customers and lack of recognition of the COVID-19 pandemic in Columbia's filing. CII urged the Commission, if it determines Columbia should receive a rate increase, that any rate increase must be just, reasonable, and indicative of the impact of the COVID-19 pandemic.

8. PSU's Position

PSU did not take a position on this issue.

9. ALJ's Recommendations on Revenue

Columbia Gas presented sufficient evidence to show its FPFTY *pro forma* revenues at present rates total $572,769,574 including purchased gas cost revenues, riders, late payment fees, Gas Procurement Charge revenues, Merchant Function Charge revenues and miscellaneous revenues. Columbia Gas detailed those revenues in Columbia Ex. 103, p. 15, and associated exhibits, as sponsored by its witness Bell.

No party directly contested an increase in revenues, except for CAUSE-PA and CII who contested the initial issue discussed above, concerning whether Columbia Gas should be permitted to receive any increase at all due to the pandemic. No party proposed specific adjustments to the Company's *pro forma* FPFTY revenues at current rates. However, OSBA pointed out Columbia Gas' request for $100.4 million included $20 million which sum would be

recoverable through the DSIC mechanism. Columbia Gas acknowledged it is now using the DSIC, but provisions at 66 Pa.C.S.A. § 1358(a)(1) limit recovery through the DSIC to only 5% of base rate revenues. Columbia Gas did not explain why it has not petitioned the Commission to raise the 5% cap.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission deny any increase in the revenue component over current revenues, because the effects of the pandemic render revenue projections too speculative.

F. Parties' Briefing Positions Concerning Expenses

1. Columbia Gas' Position

a. Labor Expense

Columbia explains its *pro forma* expense claim reflects an annualized and normalized level of expenses for the FPFTY ended December 31, 2021 which, in accordance with the Commission's *UGI Electric* decision and traditional ratemaking procedures, are annualized to test year end. The basis for Columbia's forecasted Operations and Maintenance Expense is the Company's most recent O&M budget for the Twelve Months Ended December 31, 2021, as adjusted for ratemaking purposes,[63] and is based on a concept that individuals who are responsible for approving expenditures are also responsible for budgeting the expenditures. The Company further explains the process generally follows organizational responsibility where department heads are to oversee the development of O&M budgets for all cost centers under their control. Budgets originate in operating center locations in the field and other departments representing Columbia's major business functions. These budgets are then combined with a

[63] Columbia budgets by cost category, rather than by FERC account. Budgeting by cost categories recognizes, for example, that Columbia's labor expense may change by account from year to year as different maintenance needs arise. Certain O&M expenses claims for ratemaking purposes, such as rate case expense, uncollectible accounts expense and universal service costs, are not based upon budget cost elements. Columbia St. No. 9 at 7.

corporate-level budget to arrive at a total company budget. Columbia explained the details of how it developed its O&M budget process, including the work done by department and by cost element, comparing data points, comparing recent budget periods with actual experience, and refining the budget process in detail until the process concludes in January. Columbia St. No. 9 at 4-5.

Columbia asserts this robust process results in accurate, and to a degree conservative, projections of actual expenses, as shown on Columbia Ex. NJDK-1. Columbia contends its budget variance to actual has been within 5% in eight of the past eleven years and in eight of those eleven years, actual O&M expense was greater than the original O&M budget. Columbia St. No. 9 at 6-7.

Columbia notes BIE proposed a $546,602 adjustment to labor expense to disallow annualization of wage increases in the FPFTY. In addition, both BIE and OCA made adjustments to labor expense due to employee vacancies, using somewhat different methodologies. Columbia recommends these adjustments be denied because as explained at pages 39-42 of Columbia's Main Brief and as further explained next, these adjustments should be denied.

i. Annualization Adjustment

The Company contends the Commission should reject BIE's opposition to the Company's $546,602 wage annualization adjustment. Columbia asserts the annualization of expenses is proper to conform to the accepted ratemaking "matching" principle that revenues, expenses and rate base should all reflect the same test year end conditions. *Pa. Pub. Util. Comm'n v. Philadelphia Suburban Water Co.,* 1988 Pa. PUC LEXIS 433, *96. Columbia argues the appropriateness of matching expense adjustments to a year end level, where other ratemaking components were annualized to a year end level, was the primary driver in the Commission's decision in *UGI Electric* to approve the annualization of salaries and wages.

In this case, Columbia maintains it annualized revenues to reflect a full year's worth of revenues for the test year, reflected FPFTY end plant balances in rate base and calculated depreciation expense on test year ending plant balances. Columbia Ex. 103, Sch. 4, Columbia Ex. 108 at 3, Columbia Ex. 109, Attachment B at 7-9. The Company argues it would be inconsistent, and a violation of the matching principle, to disallow annualization of labor expense.

Columbia notes BIE attempted to distinguish the *UGI Electric* decision, asserting that the decision "does not ensure that Columbia has proven its claim for an annualization adjustment in the instant proceeding." I&E M.B. at 17. Columbia argues it did provide evidence regarding its calculation of annualization of labor cost, which is based upon wage and salary rates at the end of the FPFTY. Columbia St. No. 4-R at 7; Columbia St. No. 16-R at 2-3; Columbia Ex. 104, Sch. 1, Sch. 2 at 1.[64] The Company points out BIE did not challenge these calculations and contends BIE offered no basis to distinguish Columbia's claim for annualized payroll from the annualization claim accepted in *UGI Electric*. Columbia argues BIE offered no basis for treating labor expense differently from other items of revenue, expenses and rate base with respect to annualization at an end of test year level and, accordingly, this adjustment should be rejected.

ii. Employee Complement

Columbia notes BIE and OCA computed alternative adjustments with respect to the projected complement of Company employees for the FPFTY (I&E M.B. at 18-21; OCA M.B. at 33-34) and contends each adjustment would reduce Columbia's payroll expense to a level below the annualized Historic Test Year (HTY) expense. Columbia Ex. NJDK-SR at 3. Columbia asserts BIE's and OCA's sole focus is on the assertion that there are ongoing vacancies in the full complement of employee positions. However, the Company argues both parties ignore how Columbia responds to such vacancies.

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[64] In rebuttal, Columbia made a downward revision to its FTY merit increases for non-union exempt employees. Columbia St. No. 16-R at 2.

Columbia asserts it responds to vacancies by using overtime and outside contractors to ensure that work will be performed. Rather than budget for vacancies, higher overtime and contractor use, Columbia budgets for a full complement of employees, plans for reduced overtime and does not budget for contractor use to fill in for vacancies. Columbia argues this offset of reduced overtime in exchange for increased full-time employees in the O&M budget is shown in Columbia's exhibits and explained in Columbia's testimony. Columbia Exhibit 104, 2nd Revised, Schedule 10 at 1, describes how the FTY O&M labor budget[65] reconciles to the normalized HTY expense. The Company asserts that exhibit shows that an increased expense of $1,139,386 for additional FTY headcount is offset by a planned overtime reduction of $1,300,000, which reflects the impact of incremental positions. If positions are unfilled, overtime will increase, to complete the Work Plan for the year. Columbia St. No. 9-R at 10, 19.

Columbia argues the offsetting effects of budgeting for a full employee complement, with reduced budgeted overtime, is further reaffirmed by a comparison of Columbia's budgeted and actual labor expense. Columbia claims BIE derived its vacancy rate by averaging employee vacancies for the years 2017-2019. Under BIE's theory, these vacancies should have caused Columbia to underspend its labor budget. However, the data shows the opposite:

Labor	**Budget**	**Actual**
2017	31,182	30,019
2018	31,534	32,461
2019	32,271	36,471
	94,986	98,951

Columbia Ex. NJDK-1 at 1. Columbia contends the vacancies in employee positions clearly are being offset by increases in overtime.

[65] The change to the Company's employee complement is reflected in the FTY. Columbia St. No. 9-R, at 10-11.

The Company argues OCA's proposed labor adjustment of $1,144,000[66] is similarly flawed. Columbia notes OCA reduces labor expense for 40 unfilled positions but fails to increase overtime expense. Columbia contends it is unfair to reduce labor expense, by adjusting the employee complement close to the HTY level, without including the higher level of HTY overtime. Columbia argues it cannot be expected to execute its various safety initiatives with an insufficient payroll allowance. Columbia argues it is in the process of filling the vacant positions, providing jobs for Pennsylvanians, and using overtime and contractors to make up the difference. Columbia St. No. 9-R at 9-10. Columbia argues labor expense should not be adjusted downward for assumed position vacancies without increasing labor expense for increased overtime, which is supported by historic experience. Accordingly, BIE's and OCA's labor expense adjustments should be denied.

b. Other Employee Benefits

Columbia contends BIE's and OCA's proposed adjustments are derivative of their erroneous labor expense adjustments and should be rejected. The Company notes BIE proposes an adjustment of $500,968, associated with its proposed vacancy adjustment to labor expense. I&E St. No. 1-SR at 12-14. OCA proposes an adjustment of $371,000, associated with its proposed vacancy adjustment. OCA St. No. 2-S, Sch. C-1.1.

Columbia argues both adjustments should be rejected for the reasons explained in the section on employee complement. In addition, the adjustments should be rejected because they assume a direct correlation of Other Employee Benefits to payroll. Columbia contends actual Other Employee Benefits expense can vary from budgets for reasons unrelated to headcount such as, for example, actual costs associated with the benefits themselves (insurance premiums) and actual payouts during a given period. Columbia St. No. 9-R at 20.

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[66] OCA proposed an adjustment of $1,144,000, which includes an adjustment to benefits expense.

c. Incentive Compensation and Stock Rewards

i. Incentive Compensation

Columbia notes BIE and OCA propose substantially similar adjustments to incentive compensation,[67] but both adjustments are improper because they are derived from a single year's historic ratio of incentive compensation to payroll expense. Columbia M.B. at 43-44.

Columbia contends BIE asserts that historical data should be used to develop a payout ratio because the amount can fluctuate from year to year. I&E M.B. at 23. BIE responded to this fluctuation by developing a three-year average of incentive compensation expense for 2017-2019 and proposing a $373,749 adjustment. I&E St. No. 1 at 14. Columbia disagrees and explains an average of actual incentive compensation *payments* is an incorrect calculation because incentive compensation is paid as a percentage of pay. The Company asserts using an average of *payments* does account for fluctuations in the award percentage but fails to account for increased payroll in the FPFTY, compared to payroll in the 2017-2019 periods. As a result, Columbia argues the historic average of incentive compensation payments is out of sync with payroll growth. Columbia St. No. 9-R at 20.

Columbia calculated a payout ratio of incentive compensation to payroll, using BIE's same 2017-2019 period, to demonstrate the reasonableness of its FPFTY claim:

> Using an adjusted three year average of per book Incentive Compensation as noted above of $1,891,800 compared to the average labor expense of $32,823,777 produces a payout ratio of 5.8%. Applying that average payout ratio to the budgeted labor expense for FPFTY of TME 12/31/21 of $38,998,504 (shown on Exhibit NJDK-5R, page 5) yields an outcome of $2,261,913, which is comparable to the Company's claim of $2,267,000 for

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[67] BIE proposes an adjustment of $784,686. I&E M.B. at 25. OCA proposes an adjustment of $775,000. OCA, M.B. at 36.

Incentive Compensation expense projected in the FPFTY budget.[68]

Columbia contends BIE changed its calculation when faced with this demonstration and adopted a single year—2019—as its basis for developing a payout ratio. That year was the lowest payout ratio of the three years 2017-2019. I&E M.B. at 24. Columbia argues BIE's changed methodology is essentially the same methodology proposed by OCA, using a single year—2019—to develop an incentive compensation payout ratio.

Columbia argues BIE and OCA are wrong to use a single year's payout ratio to derive an adjustment to Columbia's incentive compensation expense. Where the goal is to determine a "normal" level of expense for ratemaking purposes, an approach is to use a multiple year average, particularly where the expense varies from year to year. *UGI Electric* at 53-55 (normalizing storm damage expense using a five-year average.) Using data from a single year is inappropriate, particularly where that year was abnormally low. The Company explained this is the case for incentive compensation and further stated that, while the Company's annual budget projects Incentive Program expense calculated on the anticipated base salary of employees during the period and the assumption of achieving the target performance levels described in the Incentive Plan, actual Incentive Compensation can be awarded at, above or below target corresponding to actual results. Columbia contends the payout in the HTY reflected that the target levels of performance were not achieved. Columbia asserts that looking at one point in time does not provide a basis to qualify a projection as unreasonable and it is important to note that the Incentive Compensation payout level has been at or above target for all but two years since 2008. Columbia St. No. 9-R at 12.

Columbia notes OCA observed the incentive compensation claim represents a 53% increase over the HTY amount.[69] Columbia contends there are two explanations:

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[68] Columbia St. No. 9-R at 21.

[69] Columbia notes OCA states there are no detailed calculations to support Columbia's claim. OCA M.B., at 36. However, OCA ignores the calculation presented above, which demonstrates the reasonableness of Columbia's FPFTY incentive compensation claim.

(1) employee wages have increased from the HTY to the FPFTY, and incentive compensation is expected to increase as well; and (2) the Company and employees did not achieve the target levels of performance in the HTY, causing the payout ratio, and resulting payout, to be abnormally low. The Company contends, in contrast, when higher levels of performance were achieved in 2017, the payout ratio was higher, and the incentive compensation paid was over $400,000 more than the amount claimed in this case. I&E M.B. at 24. The achievement of target levels of performance is encouraged through a higher payout.

Columbia argues the reasonableness of its FPFTY claim for Incentive Compensation is demonstrated by the average of historic payout ratios, covering periods of above average and below average payouts. Accordingly, BIE's and OCA's proposed adjustments should be rejected.

ii. Stock Awards

Columbia notes OCA proposed to disallow $2.3 million in stock awards,[70] and the sole basis for the disallowance is OCA's contention[71] that stock awards are a shareholder-oriented goal, and not a customer service-oriented goal. OCA M.B. at 36-38.

Columbia contends public utilities are entitled to recover all reasonable expenses, including incentive compensation, incurred to provide service to customers.[72] In *Butler Township v. Pa. Pub. Util. Comm'n,* 473 A.2d 219, 221 (Pa.Cmwlth. 1984), the Commission sought to disallow a portion of rate case expense, on the basis that shareholders benefited from rate increases. Columbia asserts stock provided to employees is an alternative to a payment in cash and stock awards should not be treated any differently than cash awards.

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[70] Columbia notes this amount reflects approximately $571,000 in stock awards to Columbia employees and approximately $1.37 million in NiSource Corporate Services Company Shared Services Expense.

[71] OCA St. No. 2 at 11.

[72] *T.W. Phillips Gas and Oil Co. v. Pa. Pub. Util. Comm'n,* 474 A.2d 355 (Pa.Cmwlth. 1984).

Columbia argues OCA provided no explanation why the potential for stock appreciation is relevant to whether the payment of a stock award should be an allowed incentive compensation payment for ratemaking purposes. The Company contends an employee could receive a cash award, invest it in NiSource stock and then bear the risk, or receive the rewards, on stock price changes and dividends. However, the potential for subsequent stock price appreciation would have nothing to do with whether the initial cash award should be allowed for ratemaking purposes. Similarly, the potential for subsequent stock price changes on a stock award has nothing to do with whether the stock award is recoverable in rates.

Columbia contends the Commission set a clear standard for allowing recovery of incentive compensation, including stock awards, in rates. As stated in *UGI Electric*:

> Where, as here, the incentive program as a whole establishes that the employees' eligibility to receive the benefit is based on performance duties and metrics directly related to the provision of service, the fact that the program includes a financial metric does not disqualify it from allowance as an expense for inclusion in the rate base. We find that because UGI's incentive program is reasonable, prudently incurred, and is not excessive in amount, UGI is permitted to fully recover this expense. Furthermore, our decision to recover this expense is consistent with our prior decisions approving incentive compensation programs that are focused on improving operational effectiveness. *See e.g., PPL 2012 Order* at 26. Therefore, we shall grant UGI's request for allowance of a claim in the amount of $77,000 in Allocated Stock Options expense, and $112,000 in Restricted Stock Awards expense.[73]

Columbia argues its stock awards meet the standards set forth in *UGI Electric* and other cases concerning the allowance of incentive compensation in rates. OCA's proposed adjustment should be denied.

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73 *UGI Electric* at 74.

d. PUC, OCA, OSBA Fees

Columbia notes BIE recommended an adjustment of $348,549 to the Company's claim for PUC, OCA, OSBA fees (I&E M.B., at 26) and the revised adjustment is derived by multiplying PUC assessment factors by Columbia's FTY revenues, resulting in an amount of $1,913,451. However, Columbia contends this revised calculation continues to understate the expense allowance. Columbia avers that, after the submission of surrebuttal testimony, it received its actual 2020 invoice, which shows an amount owed of $2,008,792. Accordingly, BIE's calculation is understated by $95,341 ($2,008,792 - $1,913,451). Columbia continues to support its claim of $2,262,000, which is supported by a four-year average of annual assessments. BIE's adjustment should be rejected.

e. Rate Case Expense

Columbia contends the only issue regarding rate case expense concerns the appropriate normalization period. Columbia's claim for rate case expense is $1,060,000, normalized over a one-year period but BIE proposed a 20-month normalization period and OCA proposed a two-year normalization period.

Columbia explains it used a twelve-month normalization period because it anticipates the need to file annual rate cases for the foreseeable future. Columbia St. No. 4-R at 8. Columbia contends the need for annual rate relief will be driven by the capital requirements of Columbia's main replacement program, noting its LTIIP expenditures alone in 2022 will be near $300 million, as the pace of main replacements continues to accelerate. *See* Section IV.A, *supra*; *Second LTIIP Order* at 16-17. Columbia contends the DSIC, capped at 5% of non-gas revenues, is insufficient to allow the Company to extend rate filings. Columbia St. No. 9-R at 5-6. In addition, Columbia contends this driver of annual rate filings does not even consider other non-DSIC eligible capital spending, and other increases in O&M spending due to safety initiatives and normal wage and inflation increases.

While Columbia notes the Commission often looks to the history of rate filings to determine normalization of rate case expense, it contends there are exceptions and cites to *PPL Electric 2012*. In that case, Columbia contends PPL Electric sought a two-year normalization of rate case expense, where BIE and OCA proposed a three-year period, based on recent rate case experience. *PPL Electric 2012* at 44-45. The ALJ accepted the BIE and OCA adjustment, but the Commission reversed. *Id.* at 45-46, 47-48. The Commission acknowledged PPL Electric's three-year filing history, but also noted its major capital improvement program to address aging infrastructure. *Id.* at 47-48. For these reasons, the Commission approved PPL Electric's two-year normalization of rate case expense. Columbia argues the same logic applies here. History can provide guidance on anticipated future conditions, but it should not be the sole basis for determining revenue requirement, as this would defeat the purpose of using a FPFTY in setting rates. Therefore, Columbia's 12-month normalization period for rate case expense should be approved.

In addition, Columbia argues OCA's two-year normalization period is inappropriate. Columbia has frequently filed annual rate cases and notes that, beginning in 2010, Columbia filed seven (7) base rate cases. OSBA St. No. 2 at 3. Columbia anticipates filing annual increases, as it continues its main replacement program and a two-year normalization period clearly is not reflective of the frequency of Columbia's rate filings.

f. Outside Services

Columbia notes OCA proposed an adjustment to Columbia's Outside Service expense, which would reduce the FPFTY expense to an amount approximately $450,000 less than the Company's normalized HTY expense. Columbia Ex. 4, Sch. 2 at 2. OCA proposed a $1,757,000 reduction to Columbia's FPFTY Outside Services expense and derived its adjustment by accepting approximately $1.8 million in HTY ratemaking adjustments and FTY budgeted expense reductions, while rejecting approximately $2.2 million in FPFTY budgeted expense increases. OCA St. No. 2 at 14; Columbia Ex. 104, Sch 11. Columbia argues OCA's adjustment, if adopted, would reduce Outside Services expense to a level that is approximately $450,000 less than the Company's normalized HTY Outside Services expense. Columbia St.

No. 9-R at 14. Columbia argues OCA's adjustment disregards the accuracy of Columbia's budget process as a basis for projecting FPFTY expense. The Company contends it continually reviews budget variances throughout the year and is able to identify differences in order to adjust spending, including where appropriate increase spending on certain projects where spending is expected to fall below budget for the year. Columbia argues its budget process is a conservative approach, as actual spending exceeded budget in eight of the past eleven years and this is the sixth base rate proceeding in which the Company based its claim on the forward looking budget. Columbia St. No. 9-R at 14-15.

Columbia contends BIE did not oppose the Company's claim and OCA's adjustment should be rejected.

g. Other Adjustments

The Company notes that, after preparing its FPFTY budget, it identified and quantified additional categories of costs to be incurred in the FPFTY, incremental to the budget. Columbia St. No. 4 at 42. These adjustments are:

- Additional costs associated with the Company's new Uniontown Operations Center
- Cell phone line costs associated with new metering processes for large customers
- Additional Gas Safety initiatives
- Adjustments to compensation for a limited category of field employees whose pay is below market and to encourage employees to take field leadership positions.[74]

Columbia notes OCA proposed to disallow $3,776,000 in additional gas safety initiatives and all $432,000 in compensation adjustments, but BIE did not oppose Columbia's claimed other adjustments. Columbia argues OCA's adjustments should be rejected.

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[74] A fifth category of costs, for budget billing modifications, was withdrawn by Columbia in rebuttal, because the cost properly is a capital cost and not an expense. Columbia St. No. 4-R at 3; Columbia St. No. 9-R at 25.

h. Adjustments for Safety Initiatives

Columbia asserts it is accelerating its implementation of a Safety Management System (SMS), which focuses on identifying and mitigating potential risks and improving procedures to keep employees, customers, contractors and the public safe. Columbia St. No. 1, at 8. As part of this strategic focus on improved safety, the Company identified and proposed five incremental safety initiatives that were not included in its FPFTY budget. These initiatives are:

- Accelerating the Company's cross bore identification program, to reduce the current completion timeframe from 68 to 31 years;
- Adding two Gas Qualification Specialists to improve training of the future workforce;
- Adding seven full-time employees to accelerate the process to update the Company's legacy service line records;
- Increasing the Company's field assembled riser replacement budget to include amounts dedicated to replacement of customer-owned field assembled risers; and
- Employing a new Picarro leak detection platform system, which will dispatch two vehicles with enhanced leak detection sensors and analytics.

The total cost of these initiatives is $3,895,910. Columbia Ex. 104, Sch. 2 at 18.

Columbia notes OCA challenged the inclusion of these gas safety initiatives in Columbia's FPFTY claim. OCA St. No. 2 at 15-18. However, in rebuttal, OCA withdrew its opposition to the $120,000 included for the Picarro leak detection platform, resulting in a revised adjustment of $3,776,000. Columbia argues OCA's proposed disallowance is without merit and should be rejected.

Columbia notes OCA's principal reason for its proposed disallowance was that the expenses have not yet been incurred. OCA M.B. at 42. However, Columbia argues this reason is not a basis for disallowing expenses associated with new FPFTY expenses, and a

FPFTY would have no meaning if the only allowed expenses are those that have been incurred in the HTY or before the record is closed.

Columbia contends the Commission has approved the inclusion of new safety programs in the FPFTY. In *UGI Electric*, the utility proposed a new program to inspect and repair or replace certain company-owned facilities within the homes of customers, and to transition ownership of the facilities to the customers. BIE opposed the costs, in part, as speculative but the Commission rejected the proposed disallowance and allowed recovery of the full expense in rates. *UGI Electric* at 49.[75]

Columbia contends herein the Commission should reject OCA's proposals to deny recovery of new FPFTY programs on the basis that costs have not been incurred in the year prior to the initiation of the programs.

i. Cross Bore Identification

Columbia notes OCA proposed to disallow an increase in spending $1.4 million on cross bore identification, from a current budget amount of $1.3 million to $2.7 million, claiming Columbia has not justified the increase in spending. OCA M.B. at 42-44. Columbia argues OCA ignored the evidence. Columbia asserts it seek to more than double its cross bore identification budget in order to cut in half the time to complete the program, from 68 years to 31 years. The Company states it wants to accelerate the program because the program, to date, has identified nearly 300 cross bores involving Columbia's facilities and, based upon these results, Columbia asserts it classified these cross bores as a high risk in its Distribution Integrity Management Program (DIMP). Columbia M.B. at 52. The Company contends initially when it began its cross bore program in late 2013, it had only identified cross bores as a potential risk (Columbia St. No. 7 at 21), which is why its spending has not increased already. Columbia explains the purpose of the DIMP is to identify risks, develop plans and implement actions to reduce identified risks. Columbia argues OCA's position denies Columbia the additional

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[75] The Commission imposed a requirement that the Company provide annual reports on actual expenses incurred.

resources needed to accelerate the reduction of the cross bore risk. Columbia contends the Commission should encourage, and not reject, proactive proposals to address emerging risks.

Columbia points out OCA continued to assert in its main brief that Columbia reduced its spending commitments on cross bore identification in the past two years. OCA M.B. at 43. Columbia denies it reduced spending and contends it has maintained a steady budget for cross bore investigations since 2014, as it has assessed the risk. Columbia argues it consistently met, or exceeded, its budget for the cross bore investigation program from 2015 through 2019, and expects to meet or exceed its 2020 spending target.

Columbia contends its proposal - to double its cross bore program expenditures, in order to reduce by over 50% the time to address this high risk issue - is reasonable and in the public interest. Accordingly, OCA's proposed disallowance should be denied.

ii. Gas Qualification Specialists

Columbia notes OCA opposed recovery of the cost to hire two new training specialists, relying upon the current employee headcount, and arguing that the Company has not hired these incremental employees to date. OCA St. No. 2 at 16; OCA St. No. 2-S at 11. Columbia asserts it, like many utilities around the country, faces an employee retirement challenge because, as long-time employees reach retirement age, the Company must be prepared to train new employees on the ever-increasing requirements for maintaining a safe system. Columbia St. No. 7 at 22-23. Columbia contends it cannot rely upon its existing workforce to provide the 21st Century training needed for the new workforce being brought on as its current workforce retires. The current workforce is needed to execute the work plan and the two incremental Gas Qualification Specialists are specialized instructors.

Columbia argues OCA's proposal will hamper this training, to the detriment of Columbia, its employees and customers. Columbia emphasizes that no party herein challenged the need for these two training specialists to instruct new, and existing, employees in operating a safe natural gas system. Columbia M.B. at 54-55. Instead, Columbia argues OCA's proposal -

to deny recovery of the cost for two training specialists to be hired in 2021 on the basis that they were not already hired in 2020 - is contrary to the entire concept of a FPFTY. Columbia argues OCA's proposal should be rejected.

iii. Legacy Service Line Records

Columbia explains that in January 2019 it implemented a legacy service line record enhancement program, which involves the review and correction of legacy service line records. The Company asserts accurate records are critically important to maintaining a safe system. Columbia St. No. 7 at 23. Columbia also explains it currently uses temporary employees to conduct this work. Columbia proposes to add seven new permanent employees, supplemented with temporary employees, to undertake the work, at a cost of $491,000, so it can accelerate the effort, and minimize the challenges of turnover and training of temporary employees.

The Company notes OCA opposed this proposed cost, asserting the same basis as its opposition to the Company's Gas Qualification Specialists – that the Company has not yet hired these employees and should rely upon its current headcount. OCA St. No. 2 at 16; OCA St. No. 2-S at 11. For the same reasons explained concerning the Gas Qualification Specialists, Columbia argues OCA's proposal should be rejected. Columbia contends these employees have not yet been hired because they are not reflected in the 2020 budget and are scheduled to be added in 2021. The Company points out that OCA did not assert the proposed work should not be undertaken and, indeed, BIE's Pipeline Safety witness endorsed the project to update Company records. I&E St. No. 5-SR at 12. In fact, the Company notes BIE recommended the Company accelerate the pace of updating records, as part of its risk reduction recommendations, subject to approval of the $491,000 to hire additional employees. BIE M.B. at 84. Accordingly, Columbia contends OCA's proposal to reject the hiring of additional employees to accelerate its review and correction of legacy service line records should be denied.

iv. Customer-Owned Field Assembled Riser Replacement

The Company argues a suggested OCA adjustment – to deny Columbia's proposal to replace customer-owned field assembled risers at an additional cost of $1.7 million to the FPFTY budget - is without merit and should be rejected. Columbia explained it identified a risk of failure in field assembled risers, and field assembled risers have been identified as a high risk in Columbia's DIMP. As a result, Columbia asserts it included an allowance for replacement of Company-owned field assembled risers in its O&M budgets, since 2015. Columbia St. No. 7 at 24. Columbia asserts, however, most risers are customer-owned on Columbia's system, like most service lines. Columbia St. No. 7-R at 17; *see* 66 Pa.C.S.A. § 1510. The Company notes the Commission authorized Columbia in late 2018 to replace customer-owned field assembled risers. However, Columbia contends no amount was included in Columbia's budget to replace customer-owned risers, and Columbia has spent non-budgeted money or available funds from other work streams to replace customer-owned field assembled risers. Columbia St. No. 7 at 24. Columbia asserts it now seeks to budget for replacement of customer-owned field assembled risers, to replace an estimated 2,712 customer-owned field assembled risers at a cost of $625 per unit. OCA St. No. 2 at 17.

Columbia argues there is no basis for OCA's argument that the increase is not necessary because the COVID-19 pandemic temporarily affected the Company's ability to replace field assembled risers. OCA M.B. at 45. The Company contends it resolved the restrictions on construction and the early uncertainty with respect to appropriate safety measures. Columbia argues there is no basis to assert that it cannot accelerate its work to mitigate this high DIMP risk in 2021. Columbia's ability, in 2020, to replace field assembled risers due to the pandemic is no basis to disallow this incremental expense in 2021.

> Columbia disagrees with OCA which challenged the incremental nature of the FPFTY claim for replacement of customer-owned field assembled risers on the basis that the Company replaced a lower number of risers in the HTY ended November 30, 2019. Columbia contends its budget process is not a "build up" from its HTY. Columbia M.B. at 37-38, 56-57. Columbia argues its budget does not include funding for replacement of customer-

> owned field assembled risers, and the Company cannot continue to shift funding from replacement of its own field assembled risers or other safety-related programs to accelerate this work.[76]

Columbia suggests the Commission should deny OCA's proposed rejection of expenses to replace customer-owned field assembled risers.

i. Compensation Adjustments

The Company notes OCA proposed to disallow $432,000 in adjustments to certain field employees' pay.[77] Columbia claims OCA's sole basis for this disallowance is that Columbia has not made the adjustments in the FTY. OCA St. No. 2 at 19. The Company argues OCA's adjustment is yet again an effort to disallow the use of a FPFTY.

Columbia details the purpose and amount of its compensation adjustments in Columbia St. No. 9 at 17-18:

> The first compensation issue deals with comparison of the salaries of Field Operations Leaders (FOLs) against market rates. It was determined that 54 of the current 68 FOL incumbents are below market value. An adjustment of $461,000, with an O&M/Capital allocation of 70/30 applied, will remediate the salary gap and increase O&M labor expense by $322,700.
>
> The second planned adjustment for compensation will provide additional compensation for salaried Leaders who are required to be on standby on a rotational basis for Emergency Response, but who do not receive overtime pay in the instances that they are called out for service. The current lack of incremental compensation for emergency call-out service acts as a disincentive for employees to move into leadership positions, because such a promotion would effectively eliminate potential overtime pay. Addressing the potentially punitive nature of the shift from non-exempt to exempt compensation will enhance the Company's ability to promote and retain qualified individuals into leadership

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[76] Columbia St. No. 9-R at 16.

[77] Columbia states the actual adjustment is $431,000. Columbia Ex. 104, Sch. 2 at 18.

> positions. The Company estimates the cost of this adjustment to be an incremental $109,200 in O&M labor expense.

OCA opposed Columbia's adjustment of $431,000 in the FPFTY to increase the compensation of certain employees whose pay is below market levels, and to improve compensation for leaders who must be on standby for Emergency Response. OCA asserted the claim is "speculative" because the adjustments are not yet being implemented and cited to *Pa. Pub. Util. Comm'n v. Pa. Power & Light Co.*, 85 Pa. PUC 306 (1995) to support its position.

Columbia disagrees with OCA's understanding of the *Pa. Power & Light Co.* case and argues the case does not support OCA's argument. Columbia asserts the claim challenged in *Pa. Power & Light Co.* concerned a contingency factor added to decommissioning cost estimates. The Commission rejected the contingency factor, added to the decommissioning cost estimate, as speculative, noting that actual changes in decommissioning cost estimates could be captured in future period cost updates. *Id.* at *115-*117.

Columbia argues its compensation adjustments are not speculative contingencies of future costs. Columbia contends it calculated the amounts of compensation required to adjust pay to market levels and argues it must maintain compensation that is competitive to its peers so it can attract and maintain employees. Retaining skilled employees is important to minimize costly turnover. Columbia St. No. 16-R, at 3-4. Columbia points out the adjustments have not yet been implemented which is why the adjustments are a FPFTY cost. Columbia argues OCA's disallowance should be rejected.

j. Depreciation Expense

Columbia asserts its FPFTY depreciation expense claim, including the amortization of net salvage, is $98,832.789. Columbia Ex. KKM-1R at 1. The Company claims the calculation of annual depreciation expense and net salvage was prepared in accordance with standard procedures long accepted by this Commission. Columbia St. No. 5 at 3-4. Columbia points out the only adjustment to depreciation expense was proposed by OCA and is directly related to OCA's proposal to reduce FPFTY plant additions. As OCA's adjustment to net plant

additions is improper, as explained previously, so also Columbia argues is OCA's proposed adjustment to depreciation expense.

2. BIE's Position

BIE agrees a public utility is entitled to recover all of its reasonably incurred expenses necessary to provide service to customers.[78] Accordingly, BIE agrees the Operating and Maintenance (O&M) expenses, if properly incurred, may justly inform a rate increase proposal but expenses, if unreasonable (e.g., overstated, abnormal, unnecessary, or simply have not been incurred for the test year), should not be relied upon and it is the public utility which carried the burden of proof regarding the justness and reasonableness of each expense.

a. Labor Expense

BIE recommends a reduction of $3,053,528[79] to the Company's updated claim of $39,424,022 for Labor Expense, based on two adjustments: (1) an annualization adjustment and (2) an employee vacancy adjustment.[80] Concerning the annualization adjustment, BIE recommends the disallowance of the Company's entire as-filed claim of $546,602 for the pay increase annualization adjustment as included in the FPFTY labor expense claim. BIE notes that, while Columbia's FPFTY labor expense claim includes a budgeted adjustment for merit pay increases to become effective in different months throughout the FPFTY, it also includes a ratemaking annualization adjustment for including a full year's pay increase in the 12-month period.[81] BIE explains, by annualizing the FPFTY pay increase, the Company claims the full labor expense would occur if the variably occurring pay increases all occurred on Day One of the

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[78] *Butler Township Water Company v. Pa. Pub. Util. Comm'n,* 473 A.2d 219, 221 (Pa.Cmwlth. 1984); *UGI Corp. v. Pa. Pub. Util. Comm'n*, 410 A.2d 923, 932 (Pa.Cmwlth. 1980); *Western Pennsylvania Water Company v. Pa. Pub. Util. Comm'n*, 422 A.2d 906, 908 (Pa.Cmwlth. 1980).

[79] I&E Statement No. 1-SR at 12.

[80] I&E Statement No. 1 at 8.

[81] I&E Statement No. 1 at 8.

FPFTY.[82] BIE argues a revenue requirement calculated on this basis would recover, dollar-for-dollar, an expense level for labor expense that will never be reached in the FPFTY. Accordingly, BIE contends the Company's proposed annualization adjustment would result in an unfair and unreasonable burden on ratepayers by establishing an expense recovery in its revenue requirement because the Company's revenue requirement does not accurately reflect FPFTY expenses.[83]

b. Employee Complement

BIE notes public utilities typically have a certain level of unpredictable employee vacancies on a day-to-day operating basis due to retirements, resignations, transfers, layoffs, etc. BIE also notes such vacancies yield an annual savings in the Company's payroll and benefit costs and those savings need to be reflected for ratemaking.[84] Herein, BIE recommends an employee vacancy adjustment of 53 employees resulting in a reduction of $2,506,926 to the Company's claim.[85]

To determine the appropriate employee vacancy adjustment, BIE's expert reviewed the Company's monthly history of vacant positions for the fiscal years 2017, 2018, 2019, and 2020, and for each month of those three years, the vacancy rate was calculated by dividing the actual employee vacancies by the employee count, which was averaged to determine the annual vacancy rate for each year. BIE's expert determined the average annual vacancy rate for each of those three years was 6.44% and that percentage was applied to the FPFTY total budgeted positions of 839,[86] yielding an average of 54 positions. BIE's expert then multiplied the vacancies by the average payroll and benefit costs to produce the recommended adjustment.[87]

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82 I&E Statement No. 1 at 9.

83 I&E Statement No. 1 at 9-10.

84 I&E Statement No. 1 at 10.

85 I&E Statement No. 1-SR at 11.

86 Columbia's filing at SDR-GAS-RR-26, Attachment A.

87 I&E Statement No. 1 at 10-11.

BIE argues Columbia is being unreasonable to assume it will maintain 100% full staffing in the FPFTY. There will always be search and placement time involved in filling employee vacancies as per the Company's vacancy-filling or hiring procedures.[88] BIE contends there are three flaws in the Company's contrary argument: (1) Columbia failed to reflect a reduction in its budgeted amounts due to ongoing vacancies in the labor cost; (2) the Company did not demonstrate how the use of contractors or overtime has not been reflected in the Company's claim amounts because the Company's historic results included vacancies that would have presumably included the corresponding impact to contract labor and overtime as necessary to meet field work requirements; and (3) Columbia did not demonstrate how vacant positions automatically increase outside contract work by an equal amount of payroll costs that would otherwise be incurred.[89]

BIE pointed out Columbia updated its FPFTY total budgeted positions from 839 down to 822 and this change impacted BIE's calculation of vacant positions. With the update, BIE's expert used the average annual vacancy rate determined above (6.44%) and multiplied it by the updated FPFTY total budgeted positions (822) and determined there would be 53 vacancies.[90] Accordingly, BIE recommends an adjustment to labor expense based on the vacancies of 53 employees.

c. Summary of BIE's Labor Expense Adjustments

BIE recommends an allowance for labor expense of $36,420,494, or a reduction of $3,053,528, to the Company's updated claim. BIE's total adjustment is composed of (1) disallowance of the annualization adjustment of $546,602 and (2) a vacancy adjustment of $2,506,926. The following table shows BIE's updated calculation of adjusted labor expense:[91]

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88 I&E Statement No 1-SR at 9-10; I&E Exhibit No. 1, Schedule 3 at 5 PROPRIETARY.

89 I&E Statement No. 1-SR at 9-10.

90 I&E Statement No. 1-SR at 12.

91 I&E Statement No. 1-SR at 12.

FPFTY Labor Expense Claim – Updated	$39,474,022
Less Annualization Adjustment – Updated	-$546,602
Adjusted FPFTY Labor Expense – Updated	$38,927,420

BIE's updated recommendation on its vacancy adjustment incorporated the Company's updated FPFTY employee count of 822, which is shown in the table below to show BIE's updated adjusted payroll expense:[92]

	CALCULATION	RESULT
VACANCY RATE:		
Average Vacancy Rate for 2017, 2018, and 2019		6.44%
Updated FPFTY Employee Count		822
Projected Employee Vacancies (rounded)	822 x 0.0644	53
PAYROLL EXPENSE:		
FPFTY Adjusted Payroll Expense	$39,474,022 - $546,602	$38,927,420
Average per Employee Payroll Cost	$38,927,420 ÷ 822	$47,357
Total Payroll Claim Reduction for Vacancies	$38,927,420 x 0.0644 ($47,357 x 53, approximately)	$2,506,926

d. Other Employee Benefits

BIE recommends a reduction of $500,968 to Columbia's claim of $7,779,000 for Other Employee Benefits based on I&E's vacancy adjustment to the Company's labor expense claim discussed above. BIE explains Other Employee Benefits expense includes claims for benefits such as medical, dental, vision, life insurance, long-term disability, 401K plan, and profit sharing benefits.[93] BIE noted Columbia had disagreed with this adjustment, arguing that two of the three years actually exceeded budget and actual amounts spent for this category can vary from budget for reasons other than headcount.[94] BIE contended it recognized two of the

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92 I&E Statement No. 1-SR at 13.

93 I&E Statement No. 1 at 12-13 (*Citing* Columbia Response to I&E-RE-16, Attachment A).

94 Columbia Statement No. 9-R at 19-20.

three years exceeded the budget (2017 was 124 over budget and 2019 was 80 over budget) but BIE pointed out 2018 was 429 under budget which amount far outweighs the other two years combined.[95] Accordingly, BIE continues to recommend a reduction of $500,968 to the Company's claim for Other Employee Benefits expense.

e. Incentive Compensation and Stock Rewards

BIE notes incentive compensation comprises payments to eligible employees in addition to their base salaries and wages and these payments are generally based on the attainment of key performance indicators established by the company or an affiliate. BIE recommends a reduction of $784,686 to Columbia's claim of $2,267,000 for Incentive Compensation Expense based upon the most recent incentive compensation payout.[96]

BIE notes that in direct testimony, its expert witness recommended a reduction to this expense of $373,749 based on a three-year historic average of incentive compensation payouts,[97] but Columbia's witnesses disagreed with the method of adjusting the Company's incentive compensation expense, asserting BIE's adjustment based on historic results departs from the principals of a FPFTY claim. Columbia claims incentive compensation is dependent on numerous factors such as customer service, quality of service, safety, financial metrics and individual employee contributions and performance. [98] In addition, BIE notes Columbia asserted incentive compensation is paid as a percentage of base pay and using a three-year historical average would be out of sync with payroll growth. Further, Columbia claimed there were inconsistencies in the numbers BIE used because BIE's calculation mixed historical incentive compensation for the twelve months ended (TME) November 30, 2017 and TME November 30, 2018 with the normalized expenses for TME November 30, 2019. Columbia then provided a calculation of the historical payout percentage of 5.8% and applied it to the FPFTY labor

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[95] I&E Statement No. 1 at 13-14.

[96] I&E Statement No. 1-SR at 18.

[97] I&E Statement No. 1 at 15.

[98] Columbia Statement No. 15-R at 4-9.

expense claim, asserting the resulting product approximated the Company's FPFTY claim for incentive compensation.[99]

BIE argues its adjustment based on historical results does not depart from the principles of a FPFTY claim because, without adequate justification for a FPFTY claim, it is reasonable to rely on historical data, particularly when there is no guaranteed full payout in any given year and fluctuation from year to year can result. BIE contends it is more appropriate to rely on historical data for a just and reasonable estimate.[100] BIE pointed out that, from 2017 to 2019, incentive compensation decreased as labor expense increased and Columbia's incentive compensation is not correlated with labor expense as suggested. BIE provided an expanded version of the table provided by Columbia's expert witness in rebuttal testimony,[101] which table includes incentive compensation and labor expense.[102]

Twelve Months Ended	Per Books Labor Expense	Incentive Compensation (Columbia Ex. 4, Sch. 1, p. 2)	Percentage Payout (Incentive Compensation ÷ Labor Expense)
11/30/17	$30,125,334	$2,682,071	8.90%
11/30/18	$32,215,808	$1,521,149	4.72%
11/30/19	$36,130,190	$1,472,179	4.07%
Total	$98,471,332	$5,675,399	5.76%
Average	$32,823,777	$1,891,800	5.76%

BIE points out incentive compensation decreased significantly over the most recent historical years, both in dollars and percentage of labor expense. BIE noted specifically that incentive compensation as a percentage of labor expense decreased by more than half, going from 8.90% in the TME November 30, 2017 to 4.07% in the TME November 30, 2019. Given these considerations, BIE argues it is inappropriate to use a historical payout percentage to

99 Columbia Statement No. 9-R at 20-22.

100 I&E Statement No. 1 at 15.

101 Columbia Statement No. 9-R at 21.

102 I&E Statement No. 1-SR at 17-18.

estimate FPFTY incentive compensation.[103] Accordingly, BIE's expert updated the recommendation - that was previously based on a three-year historic average of incentive compensation dollars - to reflect the most recent incentive compensation payout of 4.07%, since the percent has declined year after year from 8.90% to 4.72% between 2017 and 2018, then to 4.07% in 2019.[104] BIE argues the drastic decline from years 2017 through 2019 show that BIE can reasonably rely on the most recent year in determining an appropriate incentive compensation expense recommendation.

BIE notes that, in the end, its expert calculated the updated recommendation by multiplying the recommended labor expense allowance of $36,420,494 by 4.07% which resulted in BIE's recommended incentive compensation allowance of $1,482,314, or a reduction of $784,686, to the Company's claim for incentive compensation expense. BIE notes that its recommended allowance is <u>higher</u> than the Company's actual 2019 payout.[105]

f. PUC, OCA and OSBA Fees

BIE recommends reducing the Company's claim for these fees by $348,549. Initially, BIE's witness recommended a reduction to this expense of $456,976 in direct testimony based upon the Company's 2019 assessment notice and that this expense may decrease due to the ongoing pandemic.[106] BIE argues it is more prudent to rely upon the most up-to-date data for PUC assessments.[107] BIE accepts the Company's argument that costs attributed to the pandemic are uncertain. BIE updated its position by not taking the pandemic into consideration and relying instead on the Commission's recently released 2020-2021 PUC assessment factors. Further, BIE asserts assessments for a given year are based on multiplying assessment factors by prior year revenues as reported in annual reports submitted to the Commission each year. Accordingly, the

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[103] I&E Statement No. 1-SR at 17-18.

[104] I&E Statement No. 1-SR at 18.

[105] I&E Statement No. 1-SR at 19.

[106] I&E Statement No. 1 at 20.

[107] I&E Statement No. 1 at 20.

proper allowance herein should be produced by multiplying FTY revenues by the current assessment factor.[108] BIE recommends a reduction of $348,549 to the Company's PUC assessments expense claim, using the 2020-2021 PUC assessment factors and the Company's FTY revenues.

g. Rate Case Expense

BIE asserts the nature and types of individual expenditures that comprise a utility's allowable claim for Rate Case Expense are those costs directly incurred to compile, present, and defend a utility's request for a base rate increase before the Commission. The actual expenditures and estimated costs typically found in an allowable rate case expense claim include legal fees for outside counsel, fees to outside consultants, and the cost of printing, document assembly, and postage.[109] The Commission characterizes rate case expense as a normal operating expense that should be accorded the same rate-making treatment as any other normalized expense.[110] To determine the length of normalization,[111] the Commission has looked to the average number of months between a company's rate case filings.[112]

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[108] I&E Statement No. 1-SR at 22-23.

[109] I&E Statement No. 1 at 4.

[110] *See Pa. Pub. Util. Comm'n v. Apollo Gas Co*., 54 Pa. PUC 358, 373 (Pa. P.U.C. 1980).

[111] Normalization is the accounting and ratemaking practice of reflecting non-recurring expenses as an annual expense.

[112] I&E Statement No. 1 at 4; *See e.g., Pa. Pub. Util. Comm'n v. City of DuBois - Bureau of Water*, Docket No. R-2016-2554150 at 65-66 (Order Entered March 28, 2017) (reconsideration of rate case expense claim denied by Order entered May 18, 2017); *Pa. Pub. Util. Comm'n v. Emporium Water Company*, Docket No. R-2014-2402324 at 50 (Order Entered January 28, 2015); *Irwin A. Popowsky v. Pa. Pub. Util. Comm'n,* 674 A.2d 1149, 1154 (Pa.Cmwlth. 1996); *Pa. Pub. Util. Comm'n v. Borough of Media Water Works*, 1990 WL 10702673 (Pa. P.U.C. 1990). It should be noted, in 2012, the Commission granted PPL Electric Utilities Corporation ("PPL") permission to normalize its rate case expense over a 24-month period based on the expected timing of future base rate case filings. *Pa. Pub. Util. Comm'n v. PPL Electric Utilities Corp.*, Docket No. R-2012-2290597 at 47-48 (Order Entered December 28, 2012). That particular base rate case was filed on March 30, 2012; however, PPL did not file its next base rate case until March 31, 2015, which was 36 months after the 2012 rate case filing. The 12-month discrepancy between PPL's projection in 2012 when it would next file and its actual filing date of the subsequent rate case shows that future projections are unreliable when determining an appropriate normalization period for the rate case expense. BIE's recommended normalization period in 2012 PPL proceeding was a 32-month interval based on the Company's historic filing frequency. I&E Statement No. 2 at 13-14 at Docket No. R-2012-2290597. The BIE recommendation in that instance produced a much more accurate result than the Company's stated future intention to file a rate case.

In this proceeding, Columbia's total rate case expense claim is $1,060,000 normalized over 12 months, resulting in an annual rate case expense claim of $1,060,000.[113] BIE argues Columbia's claimed 12-month normalization period is not supported by the Company's historic filing frequency.[114] Based upon Columbia's actual filing history, BIE's expert calculated a 20-month average as follows:

DOCKET NO.	DATE FILED	TIME ELAPSED
R-2020-3018835	April 24, 2020	➢ 25 mos.
R-2018-2647577	March 16, 2018	➢ 24 mos.
R-2016-2529660	March 18, 2016	
R-2015-2468056	March 19, 2015	➢ 12 mos.

Dividing the time between Columbia's rate filings by the three filing intervals results in a 20 month [(25 + 24 + 12) ÷ 3] filing frequency. BIE notes the Company has not disputed that the average time between the filing of its last three rate cases was 20 months.

BIE asserts its recommended 20-month normalization period results in an annualized rate case expense allowance of $636,000 [($1,060,000 ÷ 20 months) x 12 months], which reduces the Company's claim by $424,000 ($1,060,000 - $636,000).[115]

BIE notes Columbia disagreed with the reliance on its historical filing frequency, while not disagreeing with the accuracy of BIE's calculation. In addition, Columbia asserted it has filed annual rate cases in recent years with few exceptions and it anticipates filing annual rate filings for the foreseeable future.[116] BIE acknowledges Columbia has filed annual rate cases in the past, but points out recent history has shown that the exceptions have been more common.[117]

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113 I&E Statement No. 1 at 5 (*citing* Columbia Exhibit No. 104, Schedule 1 at 4 and Schedule 2 at 15).

114 I&E Statement No. 1 at 6.

115 I&E Statement No. 1 at 5-6.

116 Columbia Statement No. 4-R at 8-9.

117 I&E Statement No. 1-SR at 5.

BIE argues, by using the Company's filing frequency of the three most recent rate cases along with the current rate case, it provides a more accurate basis for the normalization period.[118] BIE contends Columbia's claim that it will file annual rate cases is speculative, and using Columbia's claimed 12-month normalization period would result in an unreasonable increase. Accordingly, BIE requests the Commission adopt the 20-month normalization period based on the Company's historic filing frequency which, if adopted, results in a recommended disallowance of $424,000 for Rate Case Expense.

h. Outside Services

BIE has not proposed an adjustment to the Company's outside services expense.

i. Other Adjustments

i. Adjustments for Safety Initiatives

BIE has not proposed an adjustment to the Company's safety initiatives.

ii. Compensation Adjustments

BIE has not proposed an adjustment to the Company's compensation adjustments.

iii. Depreciation Expense

BIE has not proposed an adjustment to the Company's depreciation expense.

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[118] I&E Statement No. 1-SR at 5.

3. OCA's Position

a. Introduction

OCA proposed several adjustments to the Company's projected operating expense level in the following areas:

A. Labor and Benefits;
B. Incentive Compensation;
C. Stock Rewards;
D. Outside Services;
E. Rate Case Expense;
F. Safety Initiatives;
G. Compensation Adjustments; and
H. Budget Billing Adjustment.[119]

OCA St. 2, *passim*; *see also*, OCA St. 2-S, Exhibit C-1. The combined impact of the recommendations on the Company's requested revenue requirement is set forth in the table below:

L. Columbia's Requested Increase in Base Rates ($000)	**M. $100,437**
N. OCA Adjustments	O.
P. Labor and Benefits Expense	Q. $(1,114)
R. Incentive Compensation	S. ($775)
T. Stock Rewards	U. (2,300)
V. Outside Services	W. (1,757)
X. Rate Case Expense	Y. (530)
Z. Safety Initiatives	AA. (3,776)
BB. Compensation Adjustment	CC. (432)
DD.	EE.
FF. Net Adjustments	GG. $(10,714)

[119] Columbia originally included $280,000 in the FPFTY O&M expense budget for budget billing modification adjustment costs. Columbia Exhibit 104, Schedule 2 at 18. Subsequently, the Company corrected its treatment of costs associated with modification of its budget billing system and the OCA's concerns have been addressed. OCA St. 2-S at 16.

OCA St. 2-S, Schedule C-1. As discussed in its analysis in Section VI, OCA argues the Company's proposed revenue increase is inflated, largely unsupported by documents, and is not needed to satisfy its expenditures in the near-future.

b. Labor Expense

OCA points out Columbia included salaries and wages of $39,528,000 in FPFTY expenses (Columbia Exhibit 104, Schedule 1) and this expense included the Company's proposal to add 59 employees in the future test year (FTY) and 17 employees in the FPFTY. OCA recommends a total reduction of $1,144,000 to the Company's FPFTY labor and benefits expense to reflect the Company's historic and actual employee complement in 2020. OCA St. 2-S, Schedule C-1.1.

i. Annualization Adjustment

OCA did not brief this issue but noted Columbia claimed a $497,691 annualization adjustment for pay increase annualization in the FPFTY. (Columbia St. No. 9 at 8-9; *See also*, Columbia Exhibit 104, Schedule 2). OCA asserts the Company claims, through this annualization adjustment, a full year of pay increases for the Company's projected pay increases to occur at some point in the FPFTY. *Id.*

ii. Employee Complement

OCA notes Columbia forecasted FPFTY Payroll Expense of $39,536,000 associated with the Company's proposal to add 59 employees in the FTY. (Columbia St. No. 9-R, Exhibit NJDK-5R at 3). OCA argues this proposal does not reflect the Company's actual hiring experience in the FTY, 2020. OCA points out that, from the end of the HTY when the employee headcount was 763, the Company's actual employee complement peaked in April at 782, decreased in June and July, and was flat in August. As of August 2020, the employee complement stood at 773 and OCA contends that number constitutes an increase of only 19 employees since the end of the HTY compared to the Company's projection at 59. OCA

argues its adjustment to reflect an employee complement of only 782 – which was the high point of the Company's employee complement in 2020 recorded in April should be accepted. (OCA St. 2-S at 5-6).

OCA argues the Company's explanations for why the adjustment is wrong fail to explain the large disparity between the 59 additional positions requested by the Company and the—at most—19 actual additional employees hired by the Company in 2020. The Company's proposal is disproportionate compared to its actual employee complement experience in 2020 and OCA's reduction of 40 positions to reflect the Company's actual employee additions peak of 19 in 2020 is reasonable and should be accepted. In addition, OCA contends the Company's forecast of 59 additional employees in the FTY is unreasonable and unsupported by the historic data relevant to employee complement. OCA asserts it is correct to base the employee complement on actual historic data, which show no significant changes in the number of employees over the course of the FTY. Accordingly, the Commission should accept OCA's reduction to the FPFTY O&M expenses by $1,144,000, based on adjustments to new employee headcounts and benefits expense as shown in OCA St. 2-S, Schedule C-1.1.

c. Other Employee Benefits

OCA notes Columbia has requested $7,779,000 in Other Employee Benefits expenses. (Columbia Exhibit 104, Schedule 1 at 4). The Company claimed this increase related specifically to increases in medical expenditures and in 401(k) cost increases commensurate with merit increases and additional headcount. (Columbia St. 9 at 14). OCA notes its adjustment to employee benefits is included in the labor adjustment above in Section A.

d. Incentive Compensation and Stock Rewards

OCA contends Columbia's claimed costs for incentive compensation in the FPFTY lacks any documentation pertaining to its calculation and, therefore, OCA recommends this cost be adjusted by OCA's recommended level of $1,492,000 obtained through applying

the ratio of the Company's normalized HTY incentive compensation expense to the HTY payroll expense to the Company's FPFTY payroll expense. OCA St. 2 at 10-11. OCA also recommends the $2,300,000 of stock rewards expense be eliminated from the FPFTY O&M expenses because stock rewards are a shareholder-oriented goal, not a customer service-oriented goal. OCA St. 2 at 12.

i. Incentive Compensation

OCA notes that in the FPFTY ending December 31, 2021, the Company included $2,267,000 in incentive compensation expense, a 53% increase over the incentive compensation actually incurred in the normalized HTY, without any workpapers or documentation to establish how the FPFTY incentive compensation was determined. *See* OCA St. 2 at 10-11. OCA contends this incentive compensation amount represents payments to all classes of employees, and not executive bonuses. *Id.* To adjust the unsupported 53% increase in the Company's incentive compensation amount, OCA proposed to apply the ratio of 3.77% to the Company's FPFTY payroll expenses of $39,536,000 to reach a calculated incentive compensation of $1,492,000. *Id.* This adjusted amount is $775,000 less than the $2,267,000 requested by the Company in its filing. *Id.*

OCA argues there is a lack of documentation to support the projected 53% increase in incentive compensation. It is more reasonable to assume the ratio of incentive compensation to payroll expense in the FPFTY will be the same as the ratio of incentive compensation to payroll expense in the normalized HTY. OCA St. 2 at 11. The Company's proposal to increase incentive compensation by 53% is unsupported by any workpapers or detailed calculations. Given the complete lack of any workpapers or documentation to support the Company's projected FPFTY incentive compensation, OCA asserts its adjustment of $775,000 represents a reasonable method to determine the incentive compensation to be included in the Company's revenue requirement because it is the same ratio of incentive compensation to payroll expense in the FPFTY as in the normalized HTY. Thus, OCA contends the Commission should accept OCA's adjustment of $775,000 to a level of

$1,492,000 for incentive compensation expense, as shown on OCA St. 2-S, Schedule C-1 and Table II.

ii. Stock Rewards

OCA points to $2,300,000 in stock rewards Columbia included in its FPFTY O&M expenses and explains that this amount includes $570,765 of stock rewards in Labor Expense and $1,728,531 of stock rewards in NiSource Corporate Services Company (NCSC) Shared Services Expense. OCA St. 2 at 11. Regarding stock rewards, OCA proposed an elimination of the $2,300,000 of stock rewards expense in its entirety from the O&M expenses. This elimination recognizes that stock rewards are a shareholder-oriented goal, not a customer service-oriented goal. OCA St. 2 at 12. When it comes to consumers bearing the costs of stock rewards, OCA opined through its witness that appreciation of common stock is a <u>shareholder</u>-oriented goal, not a <u>customer</u>-oriented goal. OCA asserts that higher rates result in higher revenues, which in turn results in higher earnings that increase the value of common stock. Therefore, when Columbia includes such incentive compensation in the revenue requirement, Columbia is, in effect, requiring its customers to reward company management on a contingency basis for getting them to pay higher rates. If the incentive compensation program is successful in increasing earnings and common stock values, the shareholders should be happy to reward management accordingly and absorb the cost of the program. Accordingly, OCA argues, since shareholders are the beneficiaries of increases to common stock valuations, it should be the shareholders, <u>not</u> customers, who bear the cost of the stock rewards. OCA St. 2 at 12.

OCA points out that Columbia did not dispute OCA's description of the Company's stock rewards program as a "form of incentive compensation whose ultimate value is based solely on the attainment of financial goals by the parent company." OCA St. 2-S at 8; *see also*, OCA St. 2 at 11. OCA clarified in surrebuttal testimony that stock rewards may be a component of the employees' total compensation package but the operative question is whether customers or shareholders should bear the cost of the stock rewards program. OCA continued to insist that since shareholders are the beneficiaries of increases to common stock valuations, it is

not unreasonable for shareholders to bear the costs of the stock rewards program but it is unreasonable for Columbia's ratepayers to bear these costs. OCA St. 2-S at 8.

Accordingly, OCA recommends all $2,300,000 of stock rewards expense be eliminated from the FPFTY O&M expenses in recognition that this expense is not a customer service-oriented goal. Since shareholders are the beneficiaries of increased stock prices, they should bear the costs of this expense. This expense is further inappropriate given the hardships faced by customers due to the COVID-19 pandemic. OCA submits the Company's stock rewards expense should be eliminated as shown on OCA St. 2-S, Schedule C-1 and Table II.

e. PUC, OCA and OSBA Fees

OCA notes Columbia makes a claim for PUC, OCA, and OSBA assessment fees for the FPFTY totaling $2,262,000, but OCA does not brief this issue.

f. Rate Case Expense

OCA notes Company claims $1,060,000 of rate case expense normalized over 12 months and acknowledges it has not recommended any adjustment to the level of expense claimed. However, OCA does recommend the 12-month normalization period proposed by the Company should be adjusted to a 24-month normalization period to reflect the timing of Company's last three rate case filings. OCA recommends the 24-month normalization period because the three most recent rate cases (prior to the current one) were filed in March of 2015, March of 2016, and March of 2018. OCA St. 2 at 15. With this adjustment, OCA recommends lowering Columbia's annual rate case expense to $530,000. OCA St. 2 at 15.

OCA points out the Commission has consistently held that rate case expenses are normal operating expenses, and normalization should be based on the historical frequency of the

utility's rate filings.[120] By adjusting the normalization period from 12-months to 24-months, OCA contends Columbia's rate case expense will be normalized based on its historic frequency of rate filings and, therefore, the Company's rate case expense should be reduced by $580,000 as shown in OCA St. 2-S, Schedule C-1 and Table II.

g. Outside Services

OCA notes the Company projected $24,051,727 of Outside Services expenses in FPFTY O&M expense. Columbia Exhibit 104, Schedule 1 at 2. OCA points out, however, the outside services expense during the HTY ending November 30, 2019 was $22,749,799 and this requested expense represents an increase of $1,301,928 over the HTY. As a result, OCA sought justification from Columbia for the Outside Services budget adjustments found in Columbia Exhibit 104, Schedule 10-13, including the $2,221,225 adjustment for "[i]ncreased funding for incremental AOC remediation, company owned field assembled riser replacement, restoration contracts and underground facility audit and remediation," but contends the support Columbia provided OCA did not include any workpapers or calculations to support these projections. OCA St. 2 at 13-14; *see also*, OCA St. 2-S at 9. OCA also claims the Company's "explanation" did not compensate for the total lack of documentation to establish just how Columbia's explanation that "specific needs, plans and the realities of the day to day variability in work and resources" translate into the FPFTY outside services expense proposed by the Company. OCA St. 2-S at 9. Accordingly, OCA recommends the elimination of the $2,221,225 adjustment due to the lack of support associated with the budget adjustment.

OCA pointed out its recommendation includes removing an expense of $464,212 for "all other variances" in the FTY in its transition of outside services from the HTY to the FPFTY, because Columbia provided no support for it. OCA St. 2 at 14; *see also*, Columbia Exhibit 104, Sch. 11 at 1. The resulting net effect of eliminating the $2,221,000 of FPFTY

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120 *Popowsky v. Pa. Pub. Util. Comm'n,* 674 A.2d 1149, 1154 (Pa.Cmwlth. 1996); *Pa. Pub. Util. Comm'n v. Columbia Water Co.*, 2009 Pa. PUC LEXIS 1423 (2009); *Lancaster Sewer*, 2005 Pa. PUC LEXIS *84; *Pa. Pub. Util. Comm'n v. National Fuel Gas Distribution Corp.*, 84 Pa. PUC 134, 175 (1995); *Pa. Pub. Util. Comm'n v. Roaring Creek Water Co.*, 73 Pa. PUC 373, 400 (1990); *Pa. Pub. Util. Comm'n v. West Penn Power Co.*, 119 PUR4th 110, 149 (Pa. PUC 1990).

expense increases and $464,000 of FPFTY expense reductions is to reduce FPFTY Outside Services expenses by $1,757,000, which OCA contends should be eliminated from the FPFTY O&M expenses as shown in OCA St. 2-S, Schedule C-1 and Table II.

h Other Adjustments

i. Adjustments for Safety Initiatives

OCA notes the Company adjusted FPFTY expenses by $3,896,000 for certain safety initiatives it expects to implement in the FPFTY. OCA St. 2 at 15. This expense consisted of a $1,400,000 increase in spending on the Company's cross bore program initiated in 2013, a $185,000 increase in workforce transition, a $491,000 increase in legacy service line enhancement program, a $1,700,000 increase in the customer owned field assembled risers replacement program, and a $120,000 increase in the enhanced leak detection program. Columbia St. No. 7 at 21-26.

While OCA acknowledges Columbia provided some supplemental support for the $3,896,000 of safety initiative costs, OCA contends the Company's supporting documents were insufficient to establish Columbia will implement these programs in 2021 with some reasonable degree of certainty. OCA St. 2 at 18. As a result, OCA reduced the Company's forecasted safety initiatives costs, and more broadly, the Company's O&M costs, by $3,776,000. OCA St. 2-S at 15 and Schedule C-1. Specifically, OCA submits the increases associated with workforce transition and legacy service line enhancement programs, the forecasted spending increase associated with the cross-bore program, and the forecasted spending increase associated with the customer-owned field assembled risers program should be eliminated from the Company's *pro forma* FPFTY expenses. OCA St. 2 at 17-18.

OCA contends the Company had not hired any of the incremental employees related to the workforce transition and legacy service line enhancement programs (response to OCA Data Request VIII-06) when OCA filed its direct testimony and based on Columbia's response to OCA Data Request X-06, which was served on September 8, 2020, the Company

still has not hired any of the incremental employees. In addition, OCA contends the Company has not provided any evidence that it has commenced the process of filling these incremental positions. OCA St. 2-S at 11.

OCA contends the modified employee headcount and the elimination of the Company's projected spending increases on these safety initiatives are reasonable as the Company's spending, broadly speaking, actually decreased from the HTY to the FTY, and Columbia did not provide documentation to support the proposed increase in spending on these programs. Altogether, OCA submits the Commission should accept its total adjustment of $3,776,000 for the Company's claimed safety initiatives costs as shown in OCA St. 2-S, Schedule C-1 and Table II.

a) Cross Bore Identification

OCA notes Columbia proposed spending $2,700,000, equivalent to an additional $1,400,000, on the cross bore program in 2021. OCA St. 2 at 17. This proposal represents a significant increase because spending on the cross bore program in 2019 and 2020 was only $1,300,000. *Id.* In addition, OCA points out the spending levels in 2019 and 2020 were below the spending of any year in the four-year period from 2015-2018. *Id.* OCA contends it is not clear why the spending on the cross bore program must more than double from 2020 to 2021 after having been at reduced level from previous years in both 2019 and 2020." *Id.*

OCA asserts it asked Columbia to support the costs associated with the safety initiatives and establish that these programs will be implemented in 2021 with some reasonable degree of certainty, otherwise, these expenses should be eliminated from the determination of the Company's FPFTY revenue requirement. OCA notes Columbia's response was that spending levels in 2015 through 2018 were higher than 2019 and 2020 because the Company reallocated resources from other work activities to address a high-risk concern in those years. Company St. 7-R at 21. However, OCA continues to insist Columbia has not provided an explanation as to why that high risk concern did not exist in 2019 and 2020. OCA St. 2-S at 11. In relation to the Company's actual spending on the cross bore program in 2020, OCA's witness testified:

> [T]he Company provided a comparison of actual spending by month in 2020 through July and for the corresponding months in 2019 In January and February, the spending in 2020 was well below the spending in 2019, despite the mild 2020 winter weather referenced in the response to OCA 7 Data Request V-03. Spending on the cross bore program was suspended from March 8 20, 2020 through May 17, 2020, so a comparison of spending for those months in 2020 to the prior year is not meaningful.
>
> For June and July, the spending was somewhat higher in 2020 than in 2019. However the total for the months of January, February, June, and July in 2020 was less than the total spending for those months in 2019. I do not believe that this establishes an increasing level of spending on the cross bore program.[121]

Thus, OCA for the months of 2020 when the Company's cross bore program was not suspended—January, February, June, and July—total spending for those months combined was less than the total spending for those months combined in 2019. OCA argues that - given the lack of justification for the $1,400,000 increase in the cross bore program in 2021 for after a two-year period of reduced spending levels, and the actual total spending experience in 2020 compared to 2019 - the $1,400,000 increase in spending for the cross bore program should be eliminated from the Company's total requested expense amount for safety initiatives as shown in OCA St. 2-S, Schedule C-1, line 6 and Table II.

b) Gas Qualification Specialists

OCA points out Columbia also proposed increasing its spending by $185,000 on the workforce transition safety initiative. OCA's witness testified that these costs associated with workforce transition are attributable entirely to incremental employee headcount, which in turn is based on the headcount Columbia supplied. As stated previously by OCA, a modification of that headcount is proper in this case. OCA acknowledges the Company maintains the work is "incremental to the body of work contained in the existing Work Plan, … which is designed to utilize the 822 currently authorized positions" and without incremental funding for the workforce transition, there will be no employees to do the work. Columbia St. 9-R at 15-16.

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[121] *Id.* at 13.

In Surrebuttal, OCA continued to dispute Columbia's position, pointing out that the Company has not hired any of the incremental employees related to the workforce transition and legacy service line enhancement program, as of September 2020. OCA St. 2-S at 11. Further, OCA notes the Company has not indicated that it has started the process of filling these positions. *Id.* Given that the Company has not filled these positions and has not provided any indication that they are actively hiring for these positions, OCA submits the increased spending of $185,000 on the workforce transition safety initiative should be removed from the Company's total requested expense amount for safety initiatives as shown in OCA St. 2-S, Schedule C-1, line 6 and Table II.

c) Legacy Service Line Records

OCA notes Columbia proposed increasing spending by $491,000 on the legacy service line enhancement program. Columbia St. No. 7 at Pages 21 – 26. OCA contends the costs associated with the legacy service line enhancement program are attributable entirely to the incremental employee headcount. OCA St. 2 at 16. In Rebuttal, the Company continued to insist the incremental costs associated with this program are necessary to fill the positions within the Company's 822 currently authorized positions or the work will not be done unless another employee abandons other tasks to do it. Columbia St. No. 9-R at 15-16.

OCA asserts that the proposed $491,000 increased spending on the legacy service line enhancement program is based on the headcount Columbia supplied, similar to the increase in spending on the gas qualification specialists. As it stated previously, OCA contends the increase should be eliminated to reflect the modified headcount based on the Company's actual hiring experience in 2020. OCA St. 2-S at 11. As a result, OCA requests the increased spending amount of $491,000 on the legacy service line enhancement program should be eliminated from the Company's total requested expense amount for safety initiatives as shown in OCA St. 2-S, Schedule C-1, line 6 and Table II.

d) Customer-owned Field Assembled Risers Replacement

OCA notes the Company proposed increasing the spending on the customer-owned field assembled riser replacement program by $1,700,000, because it projects to replace 2,712 customer-owned field assembled risers in the FPFTY at a cost of $625 per unit. OCA St. 2 at 17; Columbia St. 7 at 24-25. The Company proposed this $1,700,000 incremental cost from the HTY cost in which the Company replaced 1,279 customer-owner field assembled risers. *Id.* OCA submits the increase is no longer necessary given that the COVID-19 pandemic temporarily impacted the Company's ability to replace the customer-owned risers. As a result, OCA contends the Company did not establish the replacement of customer-owned field assembled risers in the FPFTY will be any greater than it was in the HTY. *Id.*

OCA disagrees with Columbia's explanation that the FPFTY expense is incremental not to the HTY expense, but rather to the FPFTY budget. OCA points out the Company replaced 1,279 customer-owned assembled risers in the HTY and presumably there was some expense associated with those replacements. OCA asserts that even if the FPFTY budget does not include incremental funding for replacement of customer-owned field assembled risers, there is some amount for that expense implicitly included in the O&M expenses for the FPFTY, even before the Company's *pro forma* adjustments on Exhibit 104, Schedule 2, Page 18. OCA contends the Company still has not established the extent to which the expense for the replacement of customer-owned field assembled risers in the FPFTY will be greater than that expense in the HTY. Accordingly, without further evidence to support the $1,700,000 increase to the customer-owned field assembled risers replacement program, OCA recommends the increase should be removed from the FPFTY expenses for safety initiatives as shown in OCA St. 2-S, Schedule C-1, line 6 and Table II.

e) Compensation Adjustments

OCA notes Columbia included $432,000 in the FPFTY budget for compensation adjustment amounts, claiming compensation for certain employees was below market levels, and certain salaried employees should be compensated for overtime work. Columbia Exhibit 104,

Schedule 2 at 18; Company St. No. 9 at 17-18. OCA asserts the Commission has disfavored speculative estimates of spending in the past. For example, OCA notes that, in *Pa. Pub. Util. Comm'n v. Pa. Power & Light Co.*, 85 Pa. PUC 306 (1995), the Commission found, "the parties have correctly cited our precedent for the proposition that speculative estimates, based on estimated totals of future costs, are not a preferred method for billing future expenses." *Id.* at 115.

OCA argues that, since compensation modifications have not been implemented and the Company has not provided any indication that it will commence implementation any time soon, the Company's proposed adjustment must be considered speculative and, accordingly, eliminated from *pro forma* FPFTY operation and maintenance expense. OCA St. 2 at 19. OCA asserts it established this compensation adjustment is speculative given that "the Company had not presented any evidence that the compensation adjustments are in the process of being implemented or that such implementation is imminent." OCA St. 2-S at 16. OCA submits the Commission should accept its recommendation to eliminate the proposed compensation adjustment of $432,000 from the FPFTY O&M expense because the Company has not affirmatively established that the adjustment is anything more than speculation. OCA St. 2-S, Schedule C-1, line 7 and Table II.

i. Depreciation

Consistent with the FPFTY plant in service adjustment above, OCA proposes an adjustment of $1,958,000 to depreciation expense as shown in OCA St. 2-S, Schedules B-1 and C-2 and Table I.

4. OSBA's Position

OSBA did not propose any expense adjustments.

5. CAAP's Position

CAAP did not propose any expense adjustments.

6. CAUSE-PA's Position

CAUSE-PA did not take a position on Expenses.

7. CII's Position

CII did not brief any issue concerning Expenses.

8. PSU's Position

PSU did not take a position on this issue.

9. ALJ's Recommendations on Expenses

a. Annualization adjustment

BIE suggested the Commission disallow the entire as-filed claim of $546,602 for the pay increase annualization adjustment as included in the FPFTY labor expense claim because Columbia Gas included a ratemaking annualization adjustment for including a full year's pay increase in the 12-month period. I&E Statement No. 1, p. 8. The ALJ agrees with BIE that Columbia Gas, by its annualizing the FPFTY pay increase, claimed the full labor expense would occur as if the variably occurring pay increases all occurred on Day One of the FPFTY. If the Commission calculated the Company's revenue requirement on this basis, Columbia Gas would recover, dollar-for-dollar, an expense level for labor expense that will never be reached in the FPFTY.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ agrees with BIE this adjustment is unreasonable and unfair, by placing an unjust burden on its customers to recover the cost of this expense in the revenue requirement. It is not in the public interest to allow a revenue requirement which does not accurately reflect expenses in the FPFTY.

b. Employee Complement

The Company's proposed to add 59 employees in the FTY – which is 2020 (Columbia St. No. 9-R, Exhibit NJDK-5R at 3) – however, this proposal must be adjusted because it does not reflect Columbia Gas' actual hiring experience. At the end of the Historical Test Year, the Company's employee headcount was 763. The employee complement peaked at 782 in April, decreased in June and July, and remained constant in August, with an employee complement equal to 773. The ALJ recommends the Commission adjust the proposal to reflect an employee complement of 782, because that figure was the actual high recorded by the Company during 2020 (OCA St. 2-S at 5-6). The ALJ agrees with OCA's proposal that the Commission should reduce the FPFTY O&M expenses by $1,144,000, based on adjustments to new employee headcounts and benefits expense (as shown in OCA St. 2-S, Schedule C-1.1) and because the employee complement should reflect 782 as supported by the historic data relevant to employee complement.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission reduce the FPFTY O&M expenses by $1,144,000.

c. Other Employee Benefits

Consistent with the Recommendation above concerning Employee Complement, the ALJ recommends the Commission reduce this element of Expenses to reflect the employee complement will be only 782 with only 20 additional employees added to the complement for 2020. This figure is reflected in the Recommendation above as part of the reduction of

$1,144,000 in FPFTY O&M expenses. This reduction will lead to a reasonable and just rate because ratepayers will not be paying for the costs of employees who have not been hired, as verified by the historical data and because Columbia Gas did not rebut sufficiently the contrary evidence presented by OCA. Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission reduce Other Employee Benefits to reflect the employee complement is 782.

d. Incentive Compensation

Columbia Gas claimed $2,267,000 for incentive compensation expense but BIE contended that expense should be reduced by $784,686 because the claimed expense is out of line with the payouts over the last 3 years. Incentive compensation comprises payments to eligible employees in addition to base salaries and wages, based on the attainment of key performance indicators established by Columbia Gas or an affiliate. BIE recommends a reduction of $784,686 to Columbia's claim of $2,267,000 for Incentive Compensation Expense based upon the most recent incentive compensation payout.[122] Columbia disagreed with using a 3-year average because incentive compensation is paid as a percentage of base pay and an average does not recognize payroll growth. Columbia provided a new calculation of the historical payout percentage of 5.8% and applied it to the FPFTY labor expense claim, claiming the result of this calculation approximated the Company's FPFTY claim for incentive compensation.[123]

The problem with Columbia Gas' argument is that, from 2017 to 2019, incentive compensation decreased as labor expense increased and Columbia Gas' incentive compensation does not correlate with labor expense. The ALJ agrees with BIE that BIE's adjustment based on historical results does not depart from the principles of a FPFTY claim (as alleged by the Company) because, without adequate justification for a FPFTY claim, it is reasonable to rely on historical data, particularly when there is no guaranteed full payout in any given year and

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[122] I&E Statement No. 1-SR at 18.

[123] Columbia Statement No. 9-R at 20-22.

fluctuation from year to year can result. Using historical data in this proceeding is more appropriate and produces a just and reasonable estimate of this expense cost.[124]

The incentive compensation decreased significantly over the most recent historical years (for the twelve months ended (TME) November 30, 2017; TME November 30, 2018 and TME November 30, 2019), both in dollars and percentage of labor expense, from 8.90% to 4.72% between 2017 and 2018, then to 4.07% in 2019.[125]

The ALJ recommends the Commission should adjust the labor expense allowance of $36,420,494 by 4.07% which, as illustrated by BIE, results in an incentive compensation allowance equal to $1,482,314, or a reduction of $784,686, of the Company's claim. It should be noted this recommended allowance is slightly higher than the Company's actual 2019 payout.[126] Columbia Gas did not provide sufficient evidence to rebut the contrary claim from BIE that use of the most recent incentive compensation data is more likely to lead to a just and reasonable estimate than the Company's contrary results, because if the Company's argument was correct, the data would not have shown a 50% reduction from 2017 through 2019.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission adjust the labor expense allowance of $36,420,494 by 4.07% resulting in an incentive compensation allowance equal to $1,482,314, or a reduction of $784,686, of the Company's claim.

e. Stock Rewards

OCA noted Columbia Gas included $2,300,000 in stock rewards as part of its FPFTY O&M expenses, including $570,765 of stock rewards in Labor Expense and $1,728,531 of stock rewards in NiSource Corporate Services Company (NCSC) Shared Services Expense.

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[124] I&E Statement No. 1 at 15.

[125] I&E Statement No. 1-SR at 18.

[126] I&E Statement No. 1-SR at 19.

OCA St. 2 at 11. OCA proposed an elimination of the $2,300,000 of stock rewards expense in its entirety from the O&M expenses.

The ALJ agrees with OCA that stock rewards and an appreciation of common stock are a shareholder-oriented goal, not a customer service-oriented goal (OCA St. 2 at 12). Higher earnings for the Company will come from higher rates which will increase the value of common stock. The ALJ agrees with OCA's argument that shareholders, not ratepayers, should bear the cost of an incentive program because, if the incentive program succeeds, Columbia Gas' earnings and common stock values will rise. OCA St. 2 at 12. Clearly, it is the shareholders who will benefit from those increases, not the ratepayers. To do otherwise – to require ratepayers to pay for the cost of incentivizing Columbia Gas' management – would be to require ratepayers to pay management for charging higher rates.

Columbia did not dispute OCA's description of the stock rewards program as a "form of incentive compensation whose ultimate value is based solely on the attainment of financial goals by the parent company." OCA St. 2-S at 8; *see also* OCA St. 2 at 11. The Commission is being asked to choose whether customers or shareholders should bear the cost of the stock rewards program. The ALJ's recommendation is offered, in part, based on the recognition that Columbia Gas requests approval of this during the pandemic, given the hardships faced by its customers due to the pandemic. The ALJ recommends the Commission determine that increases to common stock valuations are a shareholder benefit for which the shareholders should bear the cost. Approving the incentive program as an element of the rate base expenses would not lead to a reasonable and just rate.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission disallow $2,300,000 of stock rewards expense and eliminate the same from the FPFTY O&M expenses.

f. PUC/OCA/OSBA Fees

BIE recommended reducing the Company's claim for these fees by $348,549 based upon the Company's 2019 assessment notice. The ALJ agrees with BIE that it is more prudent to rely upon the most up-to-date data for PUC assessments. I&E St. No. 1 at 20. BIE updated its initial position and, using the Commission's recently released 2020-2021 PUC assessment factors, multiplied that factor by the FTY revenues.[127]

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission find the public interest will benefit if this PUC assessments expense claim is reduced by $348,549 because the expense claim will be using the most recent 2020-2021 PUC assessment factors and the Company's FTY revenues.

g. Rate Case Expense

In this proceeding, BIE and OCA contended Columbia Gas used a normalization period for its rate case expense that was too short.[128] Public utilities filing base rate cases are permitted to roll into the Expense element of a base rate the cost of bringing that proceeding because the rate case expense is consider to be a normal cost of doing business for a public utility. An allowable claim for these expenses is any actual and estimated cost which the public utility incurred to compile data, present the request and then defend its position before the Commission and parties. Examples of allowable costs include legal fees for outside counsel, fees to outside consultants, and the cost of printing, document assembly, and postage. *See Pa. Pub. Util. Comm'n v. Apollo Gas Co.*, 54 Pa. PUC 358, 373 (Pa. P.U.C. 1980).

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[127] Assessments for a given year are based on multiplying assessment factors by the prior year's revenues as reported in annual reports submitted to the Commission each year. I&E St. No. 1 at 20.

[128] Normalization is the accounting and ratemaking practice of reflecting non-recurring expenses as an annual expense.

The Commission determines the number of months between a public utility's rate case filings to find the length of time over which this cost should be normalized. *See e.g., Pa. Pub. Util. Comm'n v. City of DuBois - Bureau of Water*, Docket No. R-2016-2554150 (Order Entered March 28, 2017); *Pa. Pub. Util. Comm'n v. Emporium Water Company*, Docket No. R-2014-2402324, p. 50 (Order Entered January 28, 2015); *Irwin A. Popowsky v. Pa. Pub. Util. Comm'n,* 674 A.2d 1149, 1154 (Pa.Cmwlth. 1996); *Pa. Pub. Util. Comm'n v. Borough of Media Water Works*, 1990 WL 10702673 (Pa. P.U.C. 1990).

The ALJ agrees with BIE that, based upon Columbia Gas' actual filing history, the appropriate length of time is 20 months, using an average calculated from the filing dates for the last four base rate filings for Columbia Gas over the last 5 years: March 19, 2015; March 18, 2016; March 16, 2018; April 24, 2020. A simple average of the time lapses shows the correct normalization period is 20 months.[129] The Company did not dispute that the average time between the filing of its last three rate cases was 20 months but asserted it would file annual base rate requests moving forward. For the purposes of this proceeding, the historic data shows Columbia Gas waited two years between its last two filings. It is reasonable to use a normalization period that more closely aligns with what Columbia Gas has <u>done</u> than to base the normalization period upon what Columbia Gas proposes it <u>will do</u> in the future.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission deny Columbia Gas' use of a 12-month normalization period in this proceeding and normalize the rate case expenses over 20 months.

h. Outside Services

Columbia Gas projected $24,051,727 of Outside Services expenses in FPFTY O&M expense. Columbia Exhibit 104, Schedule 1 at 2. The outside services expense during the

[129] The average is calculated by adding the 3 time periods (12 plus 24 plus 25) and dividing by the 3 time periods, or (12+24+25)/3 = 20.33. It should be noted Columbia Gas planned to file for the increase in March 2020 but delayed its filing one month due to the pandemic's onset. If the base rate filing had been filed as Columbia Gas expected, the average would have been 20 months, or (12+24+24)/3.

HTY ending November 30, 2019 was $22,749,799. Columbia Gas did not provide sufficient evidence to justify or verify why the expense in this category is $1,301,928 over the HTY.

OCA sought specific justification from Columbia Gas for the Outside Services budget adjustments found in Columbia Exhibit 104, Schedule 10-13, including a $2,221,225 adjustment for involving incremental AOC remediation, company-owned field assembled riser replacement, restoration contracts and underground facility audit and remediation. Columbia Gas provided documentation but it was insufficient to explain why it lacked the documents to support the Company's assertions the expenses were to meet specific needs, or to justify how these needs translated into an expense item for FPFTY outside services expenses.

The ALJ agrees with OCA's suggestions that the Commission should remove an expense of $464,212 for "all other variances" in the FTY in its transition of outside services from the HTY to the FPFTY. OCA St. 2 at 14; *see also* Columbia Exhibit 104, Sch. 11 at 1. In total, the ALJ recommends the Commission eliminate the $2,221,225 of FPFTY expense increases and $464,000 of FPFTY expense reductions as shown in OCA St. 2-S, Schedule C-1 and Table II, for a net effect $1,757,000. By making these adjustments, the resulting change to the base rate expense will be in the public interest because ratepayers will not have to pay for increased expenses that have not been proven by the Company.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission remove an expense of $464,212 for "all other variances" in the FTY in its transition of outside services from the HTY to the FPFTY, with a total elimination of $2,221,225 of FPFTY expense increases and $464,000 of FPFTY expense reductions as shown in OCA St. 2-S, Schedule C-1 and Table II.

i. Other Adjustments

i. Cross Bore Identification

OCA notes Columbia proposed spending $1,400,000 more on the cross bore program in 2021, which is a significant increase. This increase is especially significant because the Company's spending on the cross bore program in 2019 and 2020 was only $1,300,000 (OCA St. 2 at 17) yet Columbia Gas did not sufficiently clarify why its spending level on the cross bore program must more than double from 2020 to 2021.

The ALJ notes the spending levels in 2019 and 2020 were lower than the spending levels from 2015 to 2018, making it imperative that Columbia Gas provide evidence to justify this increase which almost doubles the expense from the previous year. OCA St. 2-S at 11. Columbia Gas explained it reallocated resources from other work activities to address a high-risk concern in those years but did not explain if the high risk concern continued to exist after 2018. Company St. 7-R at 21.

It is not in the public interest to approve a base rate which includes a significant increase in this expense without sufficient justification from the Company to explain the expense and the need for the expense. Ratepayers should pay for all reasonable and just expenses but the Company must prove the requested expense is both reasonable and just. In this proceeding, Columbia Gas failed to do that in this category.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission should eliminate the additional $1.4 million in total requested expense amount for safety initiatives. (OCA St. 2-S, Schedule C-1, line 6 and Table II).

ii. Gas Qualification Specialists

Columbia Gas proposed increasing its spending by $185,000 on the workforce transition safety initiative, which are costs associated with workforce transition attributable entirely to incremental employee headcount, which in turn is based on the headcount Columbia supplied. The Company argued the expense was "incremental to the body of work contained in the existing Work Plan, … which is designed to utilize the 822 currently authorized positions" and without incremental funding for the workforce transition, there will be no employees to do the work. Columbia St. 9-R at 15-16.

As of September 2020, the Company had not hired any of the incremental employees related to the workforce transition and legacy service line enhancement program (OCA St. 2-S at 11) and did not provide evidence that Columbia Gas has started the process to fill these positions.

It is not reasonable and just for Columbia Gas to expect ratepayers to pay for workforce transition safety training if there are no new employees in those positions and the Company is not actively hiring for those positions. As stated previously in this Recommended Decision, the ALJ recommended the Commission reduce the Company's claimed headcount. This expense should be similarly reduced.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request , the ALJ recommends the Commission deny the request for $185,000 in additional costs to cover workforce transition safety initiative from the total requested expense amount for safety initiatives. OCA St. 2-S, Schedule C-1, line 6 and Table II.

iii. Legacy Service Line Records

Columbia Gas proposed increasing spending by $491,000 on the legacy service line enhancement program. Columbia St. No. 7 at Pages 21 – 26. These costs are attributable

entirely to the incremental employee headcount, in much the same way as the Gas Qualification Specialists were as discussed above. The ALJ agrees with OCA that this increase should be eliminated to reflect the modified headcount based on the Company's actual hiring experience in 2020. OCA St. 2-S at 11; OCA St. 2-S, Schedule C-1, line 6 and Table II.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission deny the request for the increased spending amount of $491,000 on the legacy service line enhancement program from the Company's total requested expense amount for safety initiatives.

iv. Customer-owned Field-Assembled Rise Replacement

The Company proposed increasing the spending on the customer-owned field assembled riser replacement program by $1,700,000, because it projects to replace 2,712 customer-owned field assembled risers in the FPFTY at a cost of $625 per unit. Columbia St. 7 at 24-25. The Company proposed this $1,700,000 incremental cost from the HTY cost in which the Company replaced 1,279 customer-owner field assembled risers. OCA pointed out the COVID-19 pandemic temporarily impacted the Company's ability to replace the customer-owned risers and, as a result, the Company did not establish the replacement in the FPFTY will be any greater than it was in the HTY.

The Company replaced 1,279 customer-owned assembled risers in the HTY. The ALJ agrees with OCA's contention that there is some amount for that expense implicitly included in the O&M expenses for the FPFTY, even before the Company's *pro forma* adjustments on Exhibit 104, Schedule 2, Page 18, even if the FPFTY budget does not include incremental funding for replacement of customer-owned field assembled risers. Columbia Gas did not establish the extent to which the expense for the replacement of customer-owned field assembled risers in the FPFTY will be greater than that expense in the HTY. Columbia Gas did not provide any explanation or support for this requested increase except the Company's initial explanation that the FPFTY expense is incremental not to the HTY expense, but rather to the FPFTY budget. Without further evidence to support the $1,700,000 increase to the customer

owned field assembled risers replacement program, OCA recommends the increase should be removed from the FPFTY expenses for safety initiatives. The ALJ agrees with this recommendation, as without an explanation for the increase, the resulting rates will not be reasonable and just, or in the public interest.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission adjust the FPFTY expense for safety initiatives to remove $1.7 million for the customer owned field assembled risers replacement program, as shown in OCA St. 2-S, Schedule C-1, line 6 and Table II.

v. Compensation Adjustment

Columbia Gas included $432,000 in the FPFTY budget for compensation adjustment amounts, claiming compensation for certain employees was below market levels, and certain salaried employees should be compensated for overtime work. Columbia Exhibit 104, Schedule 2 at 18; Company St. No. 9 at 17-18. Columbia Gas did not present evidence showing it is in the process of implementing the compensation adjustments or that such implementation is imminent. OCA St. 2-S at 16.

The Commission found, in *Pa. Pub. Util. Comm'n. v. Pa. Power & Light Co.*, 85 Pa. PUC 306 (1995), that "the parties have correctly cited our precedent for the proposition that speculative estimates, based on estimated totals of future costs, are not a preferred method for billing future expenses." Herein, the Company's proposed adjustment is speculative and should be eliminated from *pro forma* FPFTY operation and maintenance expense.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission should eliminate the proposed compensation adjustment of $432,000 from the FPFTY O&M expense because the Company has not affirmatively established that the adjustment is anything more than

speculation, and any resulting rate including this sum would not be reasonable and just for ratepayers to pay, especially since there is no stated intention to incur this expense.

j. Depreciation

If the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission adjust depreciation expense by $1.958 million, consistent with the discussion above concerning the FPFTY plant in service adjustment, as suggested by OCA in OCA St. 2-S, Schedules B-1 and C-2 and Table I.

G. Parties' Briefing Positions Concerning Taxes

1. Columbia Gas' Position

a. Taxes Other Than Income Taxes

Columbia notes its FPFTY Taxes Other Than Income Taxes is $3,825,546. Columbia points out the only parties to propose a payroll adjustment in this category were BIE and OCA and concern the payroll taxes. I&E St. No. 1-SR at 2; OCA St. No. 2-S, Sch. C. Columbia asserts these adjustments are derivative to I&E's and OCA's labor expense adjustments. Columbia argues that, as the adjustments to payroll should be denied, as explained previously, accordingly, the proposed payroll tax adjustments also should be denied.

b. Income Taxes

The Company notes no party proposed disallowance of Income Tax expense, other than as related to their respective other adjustments to rate base, expenses and return. Columbia notes OCA offered an alternative method to calculate Pennsylvania Corporate Net Income Tax expense, however, OCA acknowledged its alternative method does not produce a different result from the Company's method. As there is no difference in result, Columbia contends there is no reason why the alternative method should be adopted.

2. BIE's Position

a. Taxes Other Than Income Taxes

BIE recommends reducing Columbia's claim of $3,001,823 for FICA tax expense by $275,672. BIE asserts its recommendation corresponds to recommended adjustments to labor expense and incentive compensation. The FICA tax expense reduction was calculated by multiplying the total reduction of labor expense and incentive compensation by the Company's historic test year (HTY) FICA experienced rate of 7.1823%.[130] BIE notes Columbia did not directly address the recommended adjustment to FICA tax expense but did address BIE's labor expense and incentive compensation recommendations. Accordingly, BIE revised its allowance in surrebuttal testimony to account for updated labor expense and incentive compensation recommendations because its recommendation is based upon the adjustments to labor expense and incentive compensation.[131] The updated total recommended reduction to labor expense and incentive compensation multiplied by the Columbia's HTY FICA experienced rate was $275,672.[132] Therefore, BIE recommends a reduction of $275,672 to Columbia's claim for FICA tax expense.

b. Income Taxes

BIE did not propose any adjustments to income taxes.

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[130] I&E Statement No. 1 at 18-19.

[131] I&E Statement No. 1-SR at 20.

[132] I&E Statement No. 1-SR at 20-21.

3. OCA's Position

a. Taxes Other Than Income Taxes

OCA contends that, consistent with the FPFTY labor expense adjustment above, OCA proposes an adjustment of $111,000 to non-income payroll taxes. OCA St. 2 at 20 and Schedule C-3. OCA submits the Commission should accept this adjustment of $111,000 because the adjustment coincides with the appropriate labor expense adjustments described previously and as shown in OCA St. 2-S, Schedules C, C-3, C-4, and Table I.

b. Income Taxes

OCA proposes to modify the Company's method of calculating the Pennsylvania Corporate Net Income Tax (CNIT or state income tax) to be included in the calculation of *pro forma* operating income under present rates and the revenue deficiency. OCA St. 2 at 21-23. While the resulting calculation does not produce an end result different from that of the Company, OCA offers a simpler method of calculation that avoids the necessity of having to recalculate a new "State Income Tax Effect Tax Rate" and a new Revenue Conversion Factor for changes in the revenue requirement. *Id.* at 22-23. In this simpler method, OCA suggests using a CNIT of 5.994% in the calculation of the Revenue Conversion Factor to reflect the statutory CNIT rate of 9.999% and the Net Operating Loss Deduction which decreases the effective CNIT tax rate. OCA St. 2-S at 16-17. As a result, OCA's witness calculated an adjusted state income tax expense of $988,000 and a Revenue Conversion Factor of 1.3620. *Id.* at Schedules A and C-4. OCA contends the Commission should adopt this simplified method of calculating the CNIT along with the adjusted state income tax expense for the FPFTY based on the reasonable expense adjustments described in Section VI.

4. OSBA's Position

OSBA did not brief any Tax issue.

5. CAAP's Position

CAAP did not brief any Tax issue.

6. CAUSE-PA's Position

CAUSE-PA did not take a position on Taxes.

7. CII's Position

CII did not brief any issue concerning Taxes.

8. PSU's Position

PSU did not take a position on this issue.

9. ALJ's Recommendations on Taxes

Concerning its FPFTY Taxes Other Than Income Taxes, Columbia claimed $3,825,546 was a reasonable cost, and noted the only proposed adjustments (from BIE and OCA) concerned the payroll taxes.

BIE recommended reducing Columbia's claim of $3,001,823 for FICA tax expense by $275,672, due to its earlier recommended adjustments to labor expense and incentive compensation. OCA recommended reducing the claim by $111,000 to non-income payroll taxes, consistent with its suggested FPFTY labor expense adjustment above. OCA St. 2 at 20 and Schedule C-3. OCA submits the Commission should accept this adjustment of $111,000 because the adjustment coincides with the appropriate labor expense adjustments described previously and as shown in OCA St. 2-S, Schedules C, C-3, C-4, and Table I. The proposed adjustments from BIE and OCA derive from each party's suggested labor expense adjustments. As the ALJ

recommends adjustments to the payroll and headcount, these proposed payroll tax adjustments should be approved as well.

No party proposed disallowance of Income Tax expense, other than as related to their respective other adjustments to rate base, expenses and return. OCA provided an alternate method, but its results were essentially the same. The expense as requested by Columbia Gas is a necessary cost and it is reasonable and just to include it in the base rate.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission should disallow $151,119 of Columbia Gas' claim for FPFTY Taxes Other Than Income Taxes, consistent with the Recommendations above concerning payroll and employee complement. As concerns Income Tax expense, the ALJ recommends the Commission accept this expense in the base rate.

H. Parties' Briefing Positions Concerning Rate of Return

1. Columbia Gas' Position

a. Introduction

Columbia points out four parties presented positions on rate of return: Columbia, BIE, OCA and OSBA. These positions are as follows:

Party	**Return on Equity**	**Overall Rate of Return**[133]
Columbia	10.95%	8.00%
I&E	9.86%	7.41%
OSBA	7.63%	Not provided[134]
OCA	8.50%	6.51%
OCA (zero increase)	6.53%	5.52%

[133] Positions are as presented in tables attached to parties' Main Brief.

[134] Although OSBA's brief proposed a return on equity "in the 7.63% range," OSBA did not provide tables specifying an overall rate of return or overall revenue requirement. OSBA M.B. at 7.

Columbia notes both of OCA's proposed alternative rates of return are presented in the context of its proposal to adopt a hypothetical capital structure with a higher percentage of debt (but no higher debt cost rate) than the Company's projected actual capital structure. The Company argues this change effectively reduces the return on equity Columbia would have an opportunity to achieve down to levels below what OCA displays in its tables.

To explain, Columbia sets out, at its actual capital structure ratio, how it would be provided an opportunity to earn a return on common equity of only 6.36%, not 6.53%:

Type of Capital	**Ratio**	**Cost Rate**	**Weighted Cost Rate**
Long-Term Debt	42.22%	4.75%	2.00%
Short-Term Debt	3.59%	2.06%	0.07%
Common Equity	54.19%	6.36%	3.45%
			5.52%

Columbia argues OCA's addition of hypothetical debt in the capital structure also creates greater hypothetical income tax deductions for ratemaking purposes. As a result, the return on equity that Columbia will be provided an opportunity to receive, under OCA's hypothetical capital structure, will be even less than the 6.36% computed above.

Columbia contends fixed charge coverage is an important indicator of the earnings protection for creditors. Fixed charge coverage is the multiple of available earnings over fixed charges (interest expense). Columbia St. No. 8 at 13. Low fixed coverage ratios reduce a company's creditworthiness and increase financial risk. Columbia St. No. 8 at 13-14. Under OCA's no rate increase alternative, Columbia contends its pre-tax interest coverage would be 2.95 times, which is substantially below the achieved five-year average of 4.41 times. Columbia St. No. 8 at 14. Columbia asserts the coverage ratios further demonstrate that OCA's no rate increase alternative fails to satisfy constitutional standards that prohibit confiscatory returns.

Columbia argues the Commission should demonstrate its continued support for investment in plant to replace aging infrastructure through a proper rate of return. The Company contends the Commission should reject the grossly inadequate returns proposed by OCA and OSBA, as well as the insufficient return proposed by BIE. These returns on equity are below the return on equity recently authorized for gas utilities for DSIC purposes, and the Commission's approval of these adjustments would signal to the investment community that the Commission has pulled back its support for gas safety investment.

Columbia notes BIE opposes references to DSIC returns in assessing the reasonableness of rate of return on common equity proposals. I&E M.B. at 36. However, Columbia explains why the DSIC authorized return is a relevant factor in assessing the reasonableness of the cost rate for common equity:

> **Q. Why would the 10.10%[135] rate of return on common equity for DSIC purposes serve as a floor to the cost of equity in this case?**
>
> A. It just makes no sense that the cost of equity in a rate case could be any lower than the DSIC return. First, investments that carry the DSIC return should not be penalized with a lower return when they are included in the rate base when setting base rates. Second, the DSIC return receives a true-up such that the achieved returns on DSIC investments equal the intended return in those proceedings. Rates established in a base rate case merely provide an opportunity to achieve a particular return. That is to say, there is no true-up of the achieved return with the opportunity provided in a rate case decision. As such, the cost of equity established in a base rate case must be no lower than the rate of return on common equity used in the DSIC because there is additional risk associated when achieving a particular return in base rates.[136]

The Company contends BIE is wrong to argue the DSIC analysis does not represent the full scope of a given utility's risks. The DSIC uses the same barometer group

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[135] On October 29, 2020, the Commission authorized an increase to the gas DSIC rate to 10.15%. Quarterly Earnings Summary Report, Docket No. M-2020-3021797.

[136] Columbia St. No. 8-R at 11-12.

companies and the Discounted Cash Flow (DCF) methodology, and Columbia contends the risk analysis demonstrates Columbia does not have a lower risk than the barometer group companies. Columbia St. No. 8 at 15. Columbia argues BIE's proposal - that Columbia would be authorized to receive a 5%-9% return on common equity for FPFTY plant investments, while other gas companies earn 10.15%[137] - defies rational thinking.

b. Capital Structure Ratios

Columbia contends it reflected in the case its projected actual FPFTY capital structure of 54.19% common equity, 42.22% long-term debt and 3.59% short term debt.[138] OCA proposes a hypothetical capital structure based upon average capital structure ratios of its proxy group and nationwide averages. Columbia asserts OCA's proposal to adopt a hypothetical capital structure comprised of 50% common equity and 50% debt is contrary to long-standing Commission precedent that the choice of capital structure is within the discretion of utility management, and is not to be changed absent proof that the capital structure is atypical or outside a range of reasonableness. OCA's proposal to drive Columbia's equity ratio down to an historic average of other utilities is wrong and should be rejected.

i. OCA ignored the correct legal standard

Columbia contends the legal standard in Pennsylvania for deciding whether to use a hypothetical capital structure in setting rates is simple and straightforward. If a utility's actual capital structure is within the range of a similarly situated barometer group of companies, rates are set based on the utility's actual capital structure.[139] If a utility's actual capital structure is outside of the range of the barometer group, it is considered atypical and the Commission can

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[137] The return authorized in this proceeding will be applied to new plant investments as well as existing investment.

[138] Consistent with the matching principle and the use of a FPFTY, Columbia has used the projected actual capital structure at the end of the FPFTY.

[139] *See e.g., Pa. Pub. Util. Comm'n v. PPL Electric Utilities Corp.*, 2012 Pa. PUC LEXIS 1757 ("*PPL Electric 2012*"), *Pa. Pub. Util Comm'n v. ALLTEL Pa, Inc.*, Docket No. R-942710, 59 Pa. P.U.C. 447, 491, 1985 Pa. P.U.C. LEXIS 53 at *106-07 (May 24, 1985).

rely on a hypothetical capital structure to set rates for the utility. Importantly, the legal standard is not whether the utility's capital structure deviates from the "average" capital structure of the barometer group, but whether it is outside the range. OCA has cited no cases that dispute this standard; in fact, OCA fails to even reference a legal standard.

Instead of addressing the correct legal standard, OCA offered two questions: (1) how did Columbia develop the requested common equity ratio of 54.19%; and (2) whether OCA's witness, Mr. O'Donnell, believes the capital structure proposed by Columbia is appropriate for ratemaking purposes. Columbia argues OCA asked the wrong questions, under Pennsylvania law and precedent. Columbia contends the proper question should be whether Columbia's projected actual capital structure is atypical.[140]

Columbia points out the Commission recognized: [T]he actual capital structure represents the Company's decision, in which it has full discretion, on how to capitalize its rate base." *PPL Electric 2012*, Order at 68. The Company argues there certainly is no reason to question Columbia's decision to *maintain*[141] a higher percentage of equity than debt in its capital structure, given the nearly $2 billion in net capital expenditures projected from 2020-2024, which will be incurred primarily in support of its pipeline replacement program. Columbia St. No. 8 at 9. Columbia contends OCA's "opinion" that Columbia's proposed capital structure is inappropriate ignores the correct legal standard for reviewing capital structure.

ii. Columbia's Projected Actual Capital Structure is not atypical

Columbia asserts its actual common equity ratio clearly lies within the range of common equity ratios of comparable gas utilities. Columbia points out Table 4 in the Direct Testimony of OCA Witness O'Donnell, which shows four proxy group companies (Atmos, Chesapeake, OneGas and Spire) with common equity ratios ranging from 55% to 62%. With 9

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[140] Columbia has explained at page 53 of its Main Brief how the capital structure is derived and will provide further explanation in Section VIII,B.3 of this Reply Brief.

[141] Columbia's year-end common equity ratios, including short term debt, have ranged from 52.6% to 54.2% from 2015 through 2019. Columbia Ex. 400 (updated) at 3.

utilities in the proxy group, the table shows Columbia's projected actual capital structure falls right in the middle. Columbia contends it is not possible to define Columbia's common equity ratio as "atypical."

Columbia disagrees with OCA's assertions, at page 56 of its Main Brief, that common equity financing is more expensive than debt financing because the statement falsely implies the cost of debt financing remains unchanged regardless of capital structure. Columbia contends a hypothetical debt ratio that does not alter the debt cost rate for the utility results in a serious mismatch of debt ratio and cost. Columbia argues the cost of debt and the amount of financial risk shown by the debt ratio are directly related. In other words, as the debt ratio increases, the cost of debt also increases. Columbia contends OCA's proposal in this regard ignores this basic financial principle. Columbia St. No. 8-R at 6, lines 9-13. The Commission should reject OCA's proposed capital structure because the Company's projected actual capital structure is not atypical.

iii. Columbia's Projected Actual Capital Structure is Fully Supported by the Record

Columbia argues OCA ignored the record when it theorizes its proposed 50% common equity capital structure ratio should be approved, by claiming Columbia did not meet its burden to provide support for its FPFTY actual capital structure. The Company explains capital structure ratios are not merely a set of percentages applied to common equity, long-term debt and short-term debt, but are percentages derived from real world investments in capital.

Columbia asserts it employed $1.795 billion in invested capital, as of November 30, 2019. Columbia contends that from November 30, 2019 until the end of the FPFTY, it will add about $550 million in rate base. Columbia contends it must add capital - whether through debt, retained earnings, stock issuances or paid in capital - to finance these rate base additions.[142] Columbia explains it issued $110 million in long-term debt in 2020 and $100 million in long-

[142] Rate base and capital often have some variances, due to certain balance sheet assets and liabilities not reflected in ratemaking. *See* Columbia Ex. GAS-RR-001.

term debt in 2021, $55 million in additional paid in capital in 2020, and retaining earnings of about $250 million in total in 2020 and 2021. Columbia Ex. 400 (updated) at 10, 12, 13.[143] Columbia argues it has fully described how it derived its projected actual FPFTY capital structure and capital structure ratios.[144] The Company contends, at its discretion, it chose that capital structure in consideration of its actual capital structure ratios in recent years and its need to maintain a strong equity ratio to support its capital investment program. Columbia St. No. 8 at 9; Columbia Ex. 400 (Updated) at 3.[145]

OCA also challenges Columbia's projected actual capital structure because it was developed prior to the pandemic. OCA M.B. at 58. However, OCA offers no reason why the pandemic would affect the amount of capital needed to finance Columbia's future plant additions. Indeed, with the high volatility in the capital markets that developed due to the pandemic and the onset of the recession (*see* Columbia St. No. 8-R at 7, 13), a higher proportion of equity is now needed in the capital structure to offset the increased market uncertainty.

Columbia contends it is acting prudently to replace aging plant to maintain reliable service and is maintaining a financial profile that will enable it to obtain the necessary financing to do so. Further, the Company asserts that financial profile is within the range of capital structure ratios of the proxy groups presented in this proceeding. Columbia argues that its projected actual capital structure is fully supported by the record, that actual capital structure is within the range of typical capital structures, and the projected actual capital structure should not be replaced by a hypothetical "average" capital structure. Columbia argues OCA's hypothetical capital structure must be rejected.

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143 Short-term debt also increases by about $25 million.

144 Columbia notes that its actual common equity ratio as of November 30, 2019, was 52.99%. Columbia Ex. 400 (updated) at 10.

145 Columbia notes that its actual common equity ratio at Year-end 2019 was 54.2%.

c. Debt Cost Rate

Columbia asserts its long-term debt cost rate, as updated to reflect the actual cost rate on $110 million in long-term debt issued in 2020, is 4.75% while its short-term debt cost rate is 2.06%. Columbia notes no party challenged these debt cost rates, and they should be adopted in the context of Columbia's actual capital structure ratios for debt. Columbia also notes OCA has not presented long-term and short-term debt cost components in its capital structure, but instead creates a "blended" debt cost rate of 4.52%.

d. Return on Common Equity

Columbia points out the record contains extensive testimony concerning the cost rate for common equity capital. Columbia St. Nos. 8, 8-R, 8-SR; I&E St. Nos. 2 and 2-SR; OCA St. Nos. 3 and 3S; OSBA St. Nos.1 and 1-R. In these statements, witnesses for the Company, I&E, OCA and OSBA apply various theoretical models using various inputs to estimate the cost of equity. The appropriate components of these models and the selection of inputs to these models is a matter of the judgment of each witness. Columbia states the importance, when reviewing these judgments, to consider the realities of the marketplace and the concerns of investors, who determine the cost of equity capital by purchasing common stock of utilities. These judgments also should be examined in the context of other recent determinations by the Commission regarding the cost of common equity, to measure the reasonableness of the recommendations. Columbia St. No. 8-R at 11-12.

i. Columbia's Proposal

The Company notes OCA, OSBA and, to a lesser extent, BIE have presented calculations of return on common equity that employ unjustified and flawed methods and adjustments to produce low results that are from 24 basis points to 247 basis points below the

currently authorized 10.10% DSIC return.[146] Columbia contends it is particularly noteworthy, with respect to OCA's and BIE's recommendations, that if their Discounted Cash Flow (DCF) calculations are corrected to remove these improper methods and adjustments, their results are substantially the same as Columbia's base DCF calculation, and its overall return on equity recommendation of 10.95%, as summarized below:

DCF	Dividend Yield	Growth Rate	Overall
Columbia[147]	3.39%	7.50%	10.89%
I&E	3.34%	7.68%	11.02%
OCA	3.3%-3.5%	7.57%	10.87%-11.07%

e. Columbia's Cost Rate for Common Equity Capital

i. Criticisms of Columbia's Barometer Group

Columbia states it used the nine gas utilities used by the Commission as its barometer group in determining the cost of common equity for DSIC purposes, and the Company notes these Companies are included in The Value Line Investment Survey. Columbia explains all nine of these companies have utility assets that compromise more than 50% of their total assets.[148] Columbia St. No. 8-R at 16.

Columbia faults BIE's opposition to the inclusion of New Jersey Resources and Southwest Gas Holdings in the barometer group because BIE argued the regulated revenues of

[146] Columbia notes BIE's proposed return on equity is 9.86%. OSBA's proposed return on equity is 7.63%. OCA's so-called "traditional" calculation is 8.5%. OCA's primary position that the Commission grant no increase is not based upon any analysis of market-required returns. That alternative produces a return on equity, under OCA's improper capital structure, of 6.53%, which is 357 basis points below the DSIC rate.

[147] The Columbia result is exclusive of Mr. Moul's leverage adjustment or any allowance for management effectiveness.

[148] Columbia notes UGI Corporation was not included in its barometer group, or in the barometer group used by the Commission for DSIC purposes.

these companies are less than 50% of their total revenues. However, Columbia contends the percentage of revenues is an incorrect criterium because various businesses, such as energy trading, can produce large revenues and small margins. Columbia M.B. at 73.

Columbia disagrees with OCA's opposition to including NiSource within the barometer group and prepared a stand-alone analysis for NiSource. OCA M.B. at 63. Columbia contends NiSource is part of the Value Line group of gas companies, and meets all screens applied by Columbia and BIE, therefore, there is no reason to analyze NiSource separately or to exclude it from the barometer group. Columbia M.B. at 74.

Finally, Columbia notes OCA proposed to add UGI Corporation to the barometer group but the Company points out both Columbia and BIE excluded UGI Corporation, and UGI Corporation is not included in the Commission's group of gas companies used for DSIC analysis purposes. OCA contended UGI Corporation was improperly excluded because it has diverse business operations, and attempts to compare UGI Corporation to Chesapeake Utilities, asserting that Chesapeake Utilities also has diverse business operations. OCA M.B. at 83. However, Columbia argues OCA misstated the basis for excluding UGI Corporation from the barometer group.

Columbia contends UGI Corporation's diverse operations dominate its utility operations. Non-utility operations comprise 87% of UGI Corporation's revenues, 48% of its income and 73% of its assets. Columbia St. No. 8-R at 15. UGI Corporation is not comparable, as its other operations make it a greater risk. In contrast, OCA has offered no evidence that Chesapeake Utilities other operations are dominant. Chesapeake Utilities is included in I&E's barometer group, which means it satisfied I&E Witness Mr. Keller's revenue screen of 50% or more utility revenues. Chesapeake Utilities has 79% of its assets in utility operations, and 84% of its income in utility operations. Columbia St. No. 8-R at 16. OCA's contention that UGI Corporation should be included in the barometer group should be rejected.

ii. Using Multiple Models to Derive the Cost of Equity Recommendation

Columbia notes BIE and OCA criticized its use of four different models to develop its cost of common equity recommendation. I&E M.B. at 39; OCA M.B. at 72. Columbia argues BIE's assertion – that Columbia gave equal weight to the results of four models to develop its recommendation – was incorrect. I&E M.B. at 39. Columbia asserts the average of its four results is 11.33%.[149] Columbia denies using a simple mathematical average, but contends it used informed judgment to develop its recommendation. Columbia recognizes the Commission primarily has relied upon the results of DCF analyses in recent years to evaluate the cost of common equity. However, the Company contends the Commission also recognizes the importance of informed judgment and cites, as an example, the Commission's statements in *Pa. Pub. Util. Comm'n. v. City of DuBois-Bureau of Water*, Docket No. R-2016-2554150 (Order entered March 28, 2017):

> We note that we have primarily relied upon the DCF methodology in arriving at previous determinations of the proper cost of equity and utilized the results of methods other than DCF, such as the CAPM and RP methods, as a check upon the reasonableness of the DCF derived equity return calculation, tempered by informed judgment.

Id. at 96-97 (emphasis added).

The Company contends use of informed judgment to temper the reliance on DCF results is necessary to ensure the utility has the opportunity to earn a reasonable return on its investment, consistent with long-standing ratemaking standards. *See e.g., Federal Power Comm'n v. Hope Natural Gas Co.,* 320 U.S. 591, 603 (1944); *Bluefield Waterworks and Imp. Co. v. P.S.C. of West Virginia*, 262 U.S. 679, 690 (1923) ("*Bluefield Waterworks*"). Columbia argues Pennsylvania case law makes it clear that certain factors must be considered by the Commission, including (1) the earnings that are necessary to assure confidence in the financial integrity of the company and to provide a reasonable credit profile to permit access to capital

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[149] The four original results are 11.91% (DCF), 10.50% (Risk Premium), 10.19% (CAPM) and 12.75% (CE). The average is 11.34%. Columbia M.B. at 70.

markets on reasonable terms, and (2) the amount of the investment, the size and nature of the utility, and its business and financial risks in comparison to other enterprises. Columbia M.B. at 63-64.

Furthermore, Columbia contends BIE and OCA ignore the many flaws associated with the DCF method. Columbia argues using more than one method provides a superior foundation for the cost of equity determination especially since all cost of equity methods contain certain unrealistic and overly restrictive assumptions. Columbia asserts the use of more than one method will capture the multiplicity of factors that motivate investors to commit capital to an enterprise (i.e., current income, capital appreciation, preservation of capital, level of risk bearing). The Company explains the simplified DCF model makes the assumption that there is a single constant growth rate, there is a constant dividend payout ratio, that price – earnings multiples do not change, and that the price of stock, earnings per share, dividends per share and book value per share all have the same growth rate. The use of multiple methods provides a more comprehensive and reliable basis to establish a reasonable equity return for CPA. The Commission has acknowledged the usefulness of other methods, such as CAPM and Risk Premium, as a check on the reasonableness of the DCF return. Columbia St No. 8-R at 16-17.

Columbia contends it is appropriate to consider results of multiple analyses, given the flaws in the DCF. Columbia disagrees with BIE's assessment that Columbia undertook an inappropriate risk analysis and notes that, unlike BIE, Columbia did not increase the results from any of the four analyses for factors such as bypass risk and the substantial plant replacement needs of Columbia. The Commission should consider the results of different models in exercising informed judgment.

iii. Criticisms of Columbia's DCF Result are without merit

a) Dividend Yield

The Company states OCA's criticism of Columbia's updated dividend yield calculation and assertion that the update was done differently from Columbia's original dividend

yield calculation, is unwarranted. Columbia points out OCA quoted the Commission's statement in *UGI Electric*, highlighting the importance of a dividend yield "based on the most recent available observations in the record," (OCA M.B. at 66) and yet criticized the Company for providing more recent data. Moreover, Columbia argues the updated DCF yield data produce virtually the same yield results as presented by BIE and OCA, using somewhat more current data than were used by those parties.

After receiving criticism from OCA about the 10 basis point adjustment to the dividend yield calculation, Columbia explains the average dividend yield must be adjusted to reflect the prospective nature of the dividend payments, i.e., the higher expected dividends for the future. Columbia adjusted the six-month average dividend yield in three different, but generally accepted, manners and used the average of the three adjusted values. This adjustment adds ten basis points to the six-month average historical yield, thus producing the 2.69% adjusted dividend yield for the Gas Group. Columbia St. No. 8 at 20. Columbia also notes OCA ignored Columbia Ex. 400 at 14, which demonstrates how the adjustment was calculated. Columbia argues the DCF dividend yield should be in the range of 3.4%, consistent with the results produced by Columbia, BIE and OCA.

b) Growth Rate

Columbia denies its growth rate is overstated by the inclusion of Value Line's growth estimate for Northwest Natural Gas (I&E M.B. at 47), and contends BIE's growth rate calculation is flawed because the calculation excludes a high data point for Northwest Natural Gas, but includes two abnormally low data points for the same company. Columbia argues BIE should have considered the overall results for Northwest Natural Gas because, if BIE had, Columbia contends BIE would have concluded that the high and low data points offset each other, producing a reasonable growth rate result within the range of the other barometer group companies.

Columbia also denies OCA's criticisms about growth rate projection that: (1) Columbia did not provide an update to its growth rate as part of an updated exhibit; and (2) that

updated data showed projected growth rates from 4.5% to 10.06%. Columbia argues OCA looks to the wrong data because the 4.5% number is a projection of retained earnings. Columbia asserts it primarily uses forecasted earnings growth rates to derive the growth rate and those forecasted earnings growth rates showed no material change in the Update.[150] Columbia St. No. 8-R at 8-9.

Columbia also disagrees with OCA's criticism that Columbia principally relied upon forecasted earnings growth rates, and not using historic growth rates. The Company points out historic earnings growth rates are already considered in investors' assessment of future earnings growth. Columbia M.B. at 89-90. Columbia explains again in its Reply Brief that witness Mr. Moul explained:

> As noted above, to properly reflect investor expectations within the limitations of the DCF model, earnings per share growth, which is the basis for the capital gains yield and the source of dividend payments, must be given greatest weight. The reason that earnings per share growth is the primary determinant of investor expectations rests with the fact that the capital gains yield (i.e., price appreciation) will track earnings growth with a constant price earnings multiple (a key assumption of the DCF model). It is also important to recognize that analysts' forecasts significantly influence investor growth expectations. Moreover, it is instructive to note that Professor Myron Gordon, the foremost proponent of the DCF model in public utility rate cases, has established that the best measure of growth for use in the DCF model are forecasts of earnings per share growth.[151] Therefore, his reliance on historic rates of growth in earnings, dividends and book value should be rejected.[152]

[150] "Indeed, the update of the range of earnings per share growth rates is 6.20% to 10.06%, which is not materially different from the original range of 5.94% to 10.06%. Even setting aside the leverage adjustment, the simple dividend yield plus growth return moved from 10.19% originally to 10.89% in the update, or an increase of 0.70%." Columbia St. No. 8-R at 8-9.

[151] "Choice Among Methods of Estimating Share Yield," The Journal of Portfolio Management, Spring 1989 by Gordon, Gordon & Gould.

[152] Columbia M.B. at 49 (*citing* Columbia St. No. 8-R at 20-21).

c) Criticisms of Columbia's Leverage Adjustment

Columbia notes both BIE and OCA criticize Columbia's presentation of a leverage adjustment to the DCF results. BIE stated the leverage adjustment is a "novel adjustment," however, Columbia argues there is nothing novel about the adjustment. The Company asserts its witness, Mr. Moul, has presented the adjustment for decades, and the adjustment has been used by the Commission to adjust inadequate DCF results in several cases. Columbia contends the leverage adjustment operates on a simple and undeniable principle: the greater the percentage of debt in a capital structure, the greater the financial risk and, thus, the return to be provided on common equity. Applying this principle, Columbia explains the percentage of equity in a book capital structure is less than in a market capital structure. Therefore, a return on equity derived from market data understates the return required when applied to book capital structure. Columbia St. No. 8 at 27.

iv. Criticisms of Columbia's Risk Premium Approach should be rejected

OCA challenged Columbia's use of the Risk Premium method, asserting it is not generally accepted by the Commission, and further objected to the Company's projections of bond yields for the Risk Premium Method. Columbia argues OCA's position is contrary to the Commission's which, at different points in time, has used the Risk Premium Method both as a primary method and a check on the DCF analysis.[153] Columbia points to the *PPL Electric 2012* matter, wherein the Company contends the Commission specifically credited the Risk Premium Method in its disposition of the cost of common equity. The Commission explained:

> In particular, we note that the evidence presented in this case based on the CAPM and RP methods produced a range of results that was consistently higher than the results produced by a DCF-only approach. <u>This suggests that, while properly computed in the</u>

[153] *See Pa. Pub. Util. Comm'n v. PPL Electric Utilities Corp.*, Docket No. R-00049255 at 67 and 72 (Order entered Dec. 22, 2007); *Pa. Pub. Util. Comm'n v. Philadelphia Suburban Water Co*, Docket No. R-870840, 96 P.U.R. 4th 158, 207, 1988 Pa. PUC LEXIS 433 at *135-137, (Order entered July 26, 1988); *see also Pa. Pub. Util. Comm'n v. National Fuel Gas Distribution Corp.,* Docket No. R-891218, 109 P.U.R. 4th 250, 272, 1989 Pa. PUC LEXIS 225 at *52 (Order entered Dec. 29, 1989).

abstract, the DCF-only results understate the current cost of equity for PPL and that consideration should be given to the CAPM and RP evidence in determining the appropriate range of reasonableness.[154]

Columbia argues OCA's criticism of the use of future bond yield projections is without merit, and like the use of historic growth rates, demonstrates OCA's failure to recognize that future expectations are important in setting the cost rate of equity:

> There is no merit to [OCA's] argument in this regard. For if his premise were true, then the best predictor of future earnings would be today's earnings. Since all rate of return witnesses rely upon earnings forecasts to some degree, then forecasts of interest rates would follow that logic. Use of forecasts accommodates the reality that the future will diverge from current circumstances to some degree. I am sure that everyone would agree that the coronavirus pandemic will eventually be resolved and the future will be quite different than today.[155]

v. Criticisms of Columbia's CAPM are incorrect

BIE and OCA oppose the addition of a size adjustment to Mr. Moul's CAPM presentation. Columbia anticipated and responded to I&E's and OCA's arguments in its Main Brief. Columbia M.B. at 33-34. A size adjustment is proper where the barometer group companies used to determine CAPM are substantially larger than Columbia, because size is not a risk captured by the CAPM, as Mr. Moul explained:

> There is no merit to Mr. O'Donnell assertion that recognition of the size premium provides any double-counting for this risk factor (see page 87 of OCA St. 3). A size adjustment is necessary because the financial impact of changes in specific dollar amounts of revenues and costs have a magnified influence on a small company because there are fewer dollars over which those revenues or costs can be spread. The SBBI/Morningstar Yearbook clearly

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[154] *PPL Electric 2012* at 81 (emphasis added).

[155] Columbia St. No. 8-R at 33.

demonstrates that the simple CAPM does not reflect the return that is associated with small size. As Ibbotson has stated:

> The security market line is based on the pure CAPM without adjusting for the size premium. Based on the risk (or beta) of a security, the expected return should fluctuate along the security market line. However, the expected returns for the smaller deciles of the NYSE/AMEX/NASDAQ lie above the line, indicating that these deciles have had returns in excess of those appropriate for their systematic risk.[156]

OCA criticizes Mr. Moul's use of a forecasted risk free (R_f) rate in his CAPM. OCA M.B. at 74. However, similar to OCA's criticisms made with respect to Columbia's DCF and Risk Premium results, OCA's objection to the reliance upon forecasted data is deeply flawed. Columbia explains CAPM is an expectational model but OCA's CAPM approach suffers from the infirmity of not positioning the risk-free rate of return in a forward-looking manner – rather he used historical results obtained from the past year. Columbia recommends current data should be supplemented with forward-looking data, to remedy this shortcoming. Columbia St. No. 8-R at 29, lines 13-21.

OCA also opposes Mr. Moul's use of Value Line data in deriving the market premium, contending it is variable. However, Columbia argues OCA fails to acknowledge the Value Line projection of total market return is averaged with other, lower data derived from the S&P 500 Index. Columbia Ex. 400 (Updated) at 24. Moreover, Columbia asserts BIE likewise used the same Value Line data as a source. I&E St. No. 2 at 27-28. The use of multiple data sources is a valid approach to developing the market premium, which OCA's witness acknowledged is "the most controversial aspect of the CAPM calculation." OCA St. No. 3 at 65.

vi. Columbia's CE Method

Columbia notes OCA opposed Columbia's Comparable Earnings (CE) Method, and OCA contends Columbia's use of non-regulated companies is improper. However,

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156 Columbia St. No. 8-R at 31-32.

Columbia argues OCA failed to recognize that regulation is intended to be a substitute for competition. The Company argues use of non-regulated companies in the CE is entirely consistent with the United States Supreme Court's holding in *Bluefield Water Works v. Public Service Comm'n*, 262 U.S. 668 (1923). Columbia St. No. 8 at 41

vii. Other Parties' Proposals

a) BIE's Cost of Common Equity Recommendation is Flawed and Should Be Rejected.

The Company argues the primary flaw in BIE's DCF calculation is the improper exclusion of one earning growth rate source of Northwest Natural Gas, on the basis that it was unreasonably high, while retaining two other data points that are objectively too low. Columbia contends BIE either should have included all three data points in his DCF calculation or should have excluded Northwest Natural Gas from his growth rate calculation. Columbia asserts either approach would have increased Mr. Keller's DCF conclusion. Columbia St. No. 8-R at 19.[157] Columbia also contends BIE's DCF calculation also fails to include a leverage adjustment.

BIE performed a CAPM analysis, but only as a check to its DCF result. BIE's CAPM result is 8.72%. However, as explained in Columbia's Main Brief, there are several errors in I&E's CAPM calculation. These include the use of 10-year Treasury Notes rather than 30-year Treasury Bonds, improper weighting of forecasted 10-year Treasury Notes, failure to use leverage adjusted betas, and lack of a sze adjustment. Columbia asserts, at a minimum, BIEs CAPM result should have been 9.89% without consideration of leveraged *betas*. Columbia St. No. 8-R at 27-28.

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[157] Columbia asserts, if all data points are included, Mr. Keller's DCF result would be 10.98%. If all three data points are excluded, his DCF result would be 10.44%.

b) OCA's Alternative Recommended Cost of Equity Calculations

Columbia argues OCA's cost of common equity analysis contain numerous flaws and errors that render its recommendation unreliable. Columbia M.B., Section VIII.D.2.b. The Company contends the Commission need only examine the data presented by OCA to conclude that OCA's recommended alternative costs of common equity (6.53% and 8.5%) are erroneous. OCA acknowledges the average expected return for his proxy group is 10.1%.[158] OCA Ex. KWO-3. Columbia contends OCA offers no reason why investors should be granted a rate of return on equity of 8.5% or less when their expectation is 10.1%.

The Company argues the primary flaw in OCA's DCF analysis is its reliance on the "b x r", or retained earnings growth, method to establish the DCF growth rate. The b x r method has not been endorsed by the Commission, as it implicitly uses differences in market and book dividend yields to drive down returns. As Columbia explains:

> Plowback, otherwise known as retention growth, along with external financing growth, is another means of describing book value per share growth. Other factors also contribute to earnings growth that is not accounted for by the retention growth formula, such as sales of new common stock that Mr. O'Donnell has excluded in his DCF growth rate analysis, reacquisition of common stock previously issued, changes in financial leverage, acquisition of new business opportunities, profitable liquidation of assets, and repositioning of existing assets. In my view, book value per share growth (plowback), or its surrogate retention growth, does not represent the proper financial variable to be considered when selecting the DCF growth component. The plowback approach to the DCF merely adjusts an assumed return on book common equity by the difference between the dividend yield on book value and the dividend yield on market value. The table provided below shows how his DCF result can be expressed from these values. This shows how the return expected by investors for the Comparison Group of 10.1% for 2023-2025 (see Exhibit KWO-3) is adjusted to a much lower DCF return. I have demonstrated this using the average of Mr. O'Donnell's three dividend yields (i.e., 3.30%+ 3.5% + 3,5% = 10.3% ÷ 3 = 3.43%)

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[158] This percentage excludes the projected return for NiSource, Inc., which is improperly excluded from OCA's barometer group. The inclusion of NiSource would produce a higher barometer group expected return.

Return on Equity	10.10%
Dividend Yield on Book Value	-5.80%
Dividend Yield on Market Value	3.43%
Result	7.73%

> It should be noted that the Commission has not previously adopted a retention growth (i.e., plowback) approach in the DCF analysis. A key component of retention growth is the analyst's assumed return on book common equity. Mr. O'Donnell does not and cannot explain why an investor expected return of 10.10% should be reduced to 7.73%. As shown above, the plowback approach advocated by Mr. O'Donnell is clearly inconsistent with the traditional form of the DCF model used by the Commission.

Columbia St. No. 8-R at 21-22.

Columbia argues OCA's methodology is clearly designed to achieve what OCA asserts is its goal: to "tamp down" investor expectations. However, Columbia contends the ratemaking process is not intended to tell investors what to expect because this is akin to telling investors that their stock market prices are too high and should be reduced to book levels. The regulatory process is intended to be a substitute for market forces, not to override the market to tell investors to change their expectations.

Columbia also notes OCA presented a CAPM analysis which, while correctly using data for 30-year Treasury Bonds, improperly used only historic bond yields in the CAPM. The Company argues the use of only historic data fails to reflect the expectational nature of rate of return calculations and that rates are being set for a FPFTY. In addition, Columbia points out OCA included an improperly low equity risk premium of 4% to 6% (*beta* adjusted to 3.4% - 5.1%) in its CAPM. OCA M.B. at 92. When combined with OCA's use of low historic bond yields, Columbia argues the result is a CAPM recommendation ranging from 5.5% - 7.5%, which results are clearly unreasonable, with the lower end of the range barely above Columbia's embedded cost of long-term debt. OCA's CAPM is improper and should be disregarded.

Columbia notes OCA prepared a "comparable earnings" analysis, which the Company contends simply looked at historic authorized returns by state commission across the

country. OCA M.B at 94. Columbia argues this analysis is flawed because the use of regulated utilities in a CE analysis fails to recognize that the regulatory process must consider returns achieved by non-regulated entities, against whom utilities must compete for capital. Columbia St. No. 8-R at 34. Moreover, Columbia asserts it clearly demonstrated that regulatory determined equity returns reflect a regulatory risk premium that increases as interest rates decline and vis-a-visa. (*see* CPA Statement No. 8R page 14). OCA failed to incorporate this factor into his analysis and OCA's cost of common equity recommendations should be given no weight.

c) OSBA's Cost of Common Equity Recommendation Should Be Rejected

OSBA recommends a 7.63% rate of return on common equity but Columbia contends the recommendation is not based upon any data for a barometer group, or any real analysis of current and projected market data. Instead, OSBA uses the results from a two-year old electric utility decision to derive an implied risk premium and then applies that premium as an adder to current, not projected, Treasury yields. Columbia argues this approach is unprecedented and simplistic. It would remove market analyses from the rate of return presentation. It assumes, contrary to years of research, that risk premiums are fixed across all interest rates and times. Columbia St. No. 8-R at 35. There is clearly no fixed risk premium as noted above. It ignores the risk differentials between gas and electric utilities. Columbia contends OSBA's recommended rate of return on common equity should be given no weight. Columbia M.B. at 91-92.

viii. Increment for Management Effectiveness

Columbia notes the Commission is required to consider management effectiveness in setting rates, and the Commission has included, where appropriate, an incremental upward adjustment to the cost of common equity to reflect management effectiveness. Columbia M.B. at 91-92. Columbia asserts it provided extensive evidence to demonstrate that it provides high quality service and has implemented numerous programs designed to enhance the service it provides to customers. Columbia M.B. at 93-96. This

evidence supports Columbia's proposed 20-basic point addition to the allowed rate of return on common equity.

Columbia argues BIE, OCA and OSBA ignore the statutory directive of Section 523 of the Public Utility Code, which requires the Commission to consider management effectiveness in setting rates. 66 Pa.C.S.A. § 523. Columbia asserts BIE, OCA and OSBA offer examples of instances where Columbia has not provided exemplary performance and deny any recognition for management effectiveness. However, Columbia contends neither Section 523 nor any prior Commission precedent requires exemplary performance in every aspect of operations to receive recognition of management performance through a basis point addition. Columbia cites to the Commission's decision in *PPL Electric 2012*, to grant a 12-basis point adjustment for management effectiveness, despite BIE's contentions PPL had "considerable room for improvement" in various areas of operations. *PPL Electric 2012*, Order at 94.

Columbia disagrees with BIE's contention that certain recommendations in the recent Commission Management and Operations Audit show Columbia has areas of operation that need improvement. However, Columbia points out none of the areas of improvement are listed as needing significant or major improvement. Columbia St. No. 1-R at 32. Further, none of the findings related to Gas Operations. Columbia St. No. 1-R at 33, lines 1-9. Columbia asserts it is working to make further improvements in the areas identified in the Audit. Columbia points to specific actions taken at its Smithfield Customer Contact Center (CCC) to address issues and to improve including: employee roundtable meetings; safety committee meetings; partnering with a third party consultant on employee retention; forming an Inclusion and Diversity Committee; and improving processes. Columbia St. No. 1-R at 31-32.

Columbia contends some of OCA's assertions reflect a distorted analysis, and others do not fully examine the benefits of Columbia's actions. When data is adjusted for Company size, Columbia contends it is ranked in the Top 3 of gas and electric utilities in areas of gross write-offs, residential recoveries, overdue payments, customers in debt and residential termination rates. This data demonstrates exemplary performance.

Columbia notes OCA and OSBA point to the system over-pressurization incident in Massachusetts as evidence of poor management performance but Columbia states that incident did not involve Pennsylvania management. Columbia M.B., p. 97. OCA also referenced an incident that destroyed a house in Washington County in 2019.[159] Columbia accepted responsibility for the incident, which appears to have occurred because the house was not shown in Columbia's records as being connected to the main being rehabilitated, and thus the house was not outfitted with a new pressure regulator. OCA St. No. 35 at 6. Columbia notes that it has included in this case an amount of $491,000 to hire additional employees to expedite updating of legacy service line records but noted OCA opposes this safety initiative. BIE's, OCA's and OSBA's objections to an adjustment for management performance should be rejected.

2. BIE's Position

a. Introduction

BIE asserts rate of return allows payment to a utility's debt holders with interest and fair compensation for its equity shareholders and is one of the components of the revenue requirement formula.[160] BIE notes the rate of return is expressed as the amount of revenue an investment generates in the form of net income and is usually expressed as a percentage of the amount of capital invested over a given period of time. In *Bluefield Water Works & Improvements Co. v. Public Service Comm'n of West Virginia*[161] and *Federal Power Commission v. Hope Natural Gas Co.*[162] the U.S. Supreme Court expressed the legal standards for determining rates of return.

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[159] OCA erroneously refers to this as occurring in 2020. OCA M.B. at 110.

[160] I&E Statement No. 2 at 2. The revenue requirement used RR = E + D + T + (RB x ROR), where RR = Revenue Requirement; E = Operating Expense; D = Depreciation Expense; T = Taxes; RB = Rate Base; and ROR = Overall Rate of Return. *Id.* at 2-3.

[161] 292 U.S. 679 (1923) ("*Bluefield*").

[162] 320 U.S. 591 (1944) ("*Hope Natural Gas*").

In *Bluefield* the U.S. Supreme Court stated:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.[163]

The U.S. Supreme Court affirmed these principles in *Hope Natural Gas,* stating:

> From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.[164]

Therefore, the principles followed by regulators throughout the United States to measure a fair rate of return include the following:

- A utility is entitled to a return similar to that being earned by other enterprises with corresponding risks and uncertainties, but not as high as those earned by highly profitable or speculative ventures;

163 *Bluefield*, 262 U.S. 679, 692-93.

164 *Hope Natural Gas,* 320 U.S. 591, 603.

- A utility is entitled to a return level reasonably sufficient to assure financial soundness;

- A utility is entitled to a return sufficient to maintain and support its credit and raise necessary capital;

- A fair return can change (increase or decrease) along with economic conditions and capital markets.[165]

BIE avers it accepts Columbia's hypothetical capital structure and Columbia's claimed cost rates of long-term and short-term debt, however, BIE contends it rejects Columbia's method for calculating return on common equity. Instead, BIE, through its expert witness, calculates the recommended return on equity pursuant to the Discounted Cash Flow methodology frequently used by the Commission while using the Capital Asset Pricing Model as an alternate means to verify the reasonableness of the return. In accordance with these principles, BIE's expert recommends the following rate of return for Columbia Gas:

Type of Capital	Ratios	Cost Rate	Weighted Cost Rate
Long-Term Debt	42.22 %	4.73 %	2.00 %
Short-Term Debt	3.59 %	2.06 %	0.07 %
Common Equity	54.19 %	9.86 %	5.34 %
Total	100.00 %		7.41[166]

b. **Capital Structure Ratios**

BIE asserts it accepts Columbia's claimed hypothetical capital structure and recommends using Columbia's claimed hypothetical capital structure, as the hypothetical debt and equity fall within the range of his proxy group capital structures. This range contains long-term debt ratios ranging from 33.18% to 53.48% and equity ratios ranging from 32.78% to 59.01%, with a five-year average of 40.29% for long-term debt and 47.60% for common equity.

165 I&E Statement No. 2 at 3-4. *See also Pa. Gas & Water Co. v. Pa. Pub. Util. Comm'n*, 341 A.2d 239, 249-252 (Pa.Cmwlth. 1975).

166 I&E Statement No. 2-SR at 38.

BIE's expert points out that although the Company's short-term debt is below the 2019 range of 4.77% to 19.65%, it is within range for the five-year period 2015-2019 for short-term debt of 0.41% to 26.85%.[167]

c. Debt Cost Rate

i. Cost of Long-Term Debt

BIE avers it accepts Columbia's 4.73% claimed cost rate of long-term debt. BIE notes that, although its expert accepted the Company's claimed cost rate of long-term debt of 4.70% in direct testimony, in rebuttal testimony, Columbia adjusted this number to 4.73% to reflect actual costs of promissory notes that were issued in March 2020.[168] BIE opines the Company's claimed cost rate of long-term debt is reasonable as it is representative of the industry and falls within the proxy group's implied long-term debt cost range of 3.14% to 5.82% with an average implied long-term debt cost of 4.91%.[169] Accordingly, BIE recommends using the Company's claimed cost rate of long-term debt.

ii. Cost of Short-Term Debt

BIE avers it accepts Columbia's claimed cost rate of short-term debt of 2.06%. BIE's expert points out Columbia's three-month average forecasted LIBOR rate relies upon the most recent information available,[170] although the Blue Chip Financial Forecast for the three-month average forecasted LIBOR rate from the third quarter 2020 to the third quarter of 2021 reflects a cost rate of 0.52%, Accordingly, BIE recommends using the Company's claimed cost rate of short-term debt.

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167 I&E Statement No. 2 at 10-12; I&E Exhibit No. 2, Schedule 2.

168 Columbia Statement No. 8-R at 6.

169 I&E Exhibit No. 1, Schedule 3.

170 I&E Statement No. 2 at 14.

d. Return on Common Equity

i. Columbia's Proposal

BIE notes Columbia relied on the DCF, CAPM, RP, and CE methodologies in presenting its recommended return on equity. In addition to calculating an average return on equity of 10.95%, Columbia's recommended common equity cost rate reflects a leverage adjustment and performance factor adjustments resulting in a recommendation for both a 172 basis points upwards adjustment to reflect his leverage adjustment and a 20 basis points upwards adjustment as a performance factor.[171]

BIE opposes Columbia's calculated return on equity for several reasons. First, BIE disagrees with the weights given to the results of Columbia's CAPM, RP, and CE analyses. Second, BIE disagrees with certain aspects of Columbia's discussion of risk. Third, BIE disagrees with Columbia's application of the DCF including the forecasted growth rate and leverage adjustment used. Fourth, BIE disagrees with Columbia's inclusion of a size adjustment, reliance on the 30-year Treasury Bond for the risk-free rate, and the use of a double-adjusted *beta* in the CAPM analysis. Finally, BIE claims that the Company's request for an additional 20 basis points for "strong management performance" is unjustified.[172]

Additionally, BIE notes Columbia asserted it would be inappropriate in a base rate case to grant a cost of equity that is lower than the current DSIC ROE.[173] BIE argues this assertion is simply untrue and fails to account for the fact that DSIC return for utilities is calculated differently than the equity return in a base rate case and does not represent the full scope of risk for a given utility company.[174]

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[171] Columbia Statement No. 8 at 30; Columbia Statement No. 8 at 5.

[172] I&E Statement No. 2 at 28-29.

[173] Columbia Statement No. 8-R at 11-12.

[174] I&E Statement No. 2-SR at 4.

ii. Columbia's Flawed Proxy Group

BIE notes Columbia's proxy group included the following nine companies: Atmos Energy Corp.; Chesapeake Utilities Corp.; New Jersey Resources Corp.; NiSource Inc.; Northwest Natural Holding Co.; ONE Gas, Inc.; South Jersey Industries, Inc.; Southwest Gas Holdings, Inc.; and Spire, Inc.[175] BIE asserts Columbia did not provide a list of criteria used to determine the "Gas Group" other than that the Gas Group is made up of the companies TUS uses to calculate the cost of equity in its Quarterly Earnings Report.[176]

BIE disputes Columbia's proxy group, because while both Columbia's and BIE's proxy groups contain seven of the same companies, BIE asserts Columbia's Gas Utility Proxy Group includes two companies that BIE does not use.[177] Specifically, BIE excluded New Jersey Resources Corp. and Southwest Gas Holdings, Inc., because neither met BIE's criterion that fifty percent or more of the company's revenues must be generated from the regulated gas utility industry.[178] Both the Company and OCA disagree with BIE's proxy group. BIE argues it is correct to use the percentage of revenue as a criterion for a proxy group because revenues represent the percentage of cash flow a company receives from each business line related to providing a good or service. If fewer than fifty percent of revenues come from the regulated gas business sector, a company is not comparable to the subject utility as it does not provide a similar level of regulated business.[179] BIE explains the percentage of gas assets to total assets is not an appropriate criterion because it is not always a reliable way of determining if a business is primarily a regulated utility, and there are differences between businesses in the amount of capital needed.[180]

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175 Columbia Exhibit 400, Schedule 3 at 2.

176 Columbia Statement No. 8 at 3-4.

177 I&E Statement No. 2 at 10.

178 I&E Statement No. 2 at 10.

179 I&E Statement No. 2-SR at 7 (*Citing* I&E Statement No. 2 at 10).

180 I&E Statement No. 2-SR at 6.

BIE contends its proxy group was designed to select companies that are most like the gas distribution company subject, i.e., Columbia. Further, BIE points out OCA utilized the same nine companies in its proxy group as Columbia and both performed a stand-alone analysis directly on NiSource, Inc., which BIE finds to be inappropriate and unnecessary.[181] BIE objects to using New Jersey Resources Corp. and Southwest Gas Holdings, Inc., and argues the Commission should use BIE's proxy group as it is most comparable to Columbia in developing an appropriate cost of equity.

iii. Columbia's Flawed Equal Weighting and Use of CAPM, RP and CE

BIE recommends using the DCF method as the primary method to determine the cost of common equity and using the results of the CAPM as a comparison to the DCF results.[182] BIE argues its analysis is consistent with the methodology commonly endorsed by the Commission in base rate proceedings and should be approved here.

BIE notes the Commission recently affirmed reliance primarily on the DCF and rejected giving equal weight to the other methodologies in *City of Dubois – Bureau of Water*, wherein the Commission stated:

> [T]he City's cost of equity in this proceeding should be based upon the use of the DCF methodology, with the other methodology results used as a check on the reasonableness of the DCF results. We note that we have primarily relied upon the DCF methodology in arriving at previous determinations of the proper cost of equity and utilized the results of methods other than the DCF, such as the CAPM and RP methods, as a check upon the reasonableness of the DCF derived equity return calculation, tempered by informed judgement. We are not persuaded by the arguments of the City that we should assign equal weight to the multiple methodologies.[183]

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181 I&E Statement No. 2-SR at 8-9.

182 I&E Statement No. 2 at 21.

183 *City of DuBois – Bureau of Water* at 96-97.

In *UGI Utilities, Inc. – Electric Division*, the Commission stated:

> The ALJs adopted the positions of I&E and the OCA that the DCF method should be the primary method used to determine the cost of common equity, and that the results of the CAPM should be used as a comparison to the DCF results. The ALJs found no reason to deviate from these preferred methods in this proceeding. Therefore, the ALJs recommended against the use of the RP and CE methods proffered by UGI. Further, the ALJs noted that the companies analyzed under the CE model are too dissimilar to a regulated public utility company. R.D. at 60, 76, 81-82….[W]e shall adopt the positions of I&E and the OCA and shall base our determination of the appropriate cost of equity on the results of the DCF method and shall use the CAPM results as a comparison thereto. As both Parties noted, the use of the DCF model has historically been our preferred methodology. This was recently affirmed in *Pa. P.U.C., et al v. City of DuBois - Bureau of Water*, Docket No. R-2016-2554150, *et. al.* (Order Entered March 28, 2017). Like the ALJs, we find no reason to deviate from the use of this method in the instant case. Accordingly, we shall deny UGI's Exceptions on this issue.[184]

BIE asserts it used the CAPM method, as endorsed by the Commission, as a comparison to the DCF results but contends there are disadvantages associated with the CAPM. BIE argues the CAPM should not be used as a primary method[185] as it is a less reliable model because it measures the cost of equity indirectly and risk premiums vary depending on the debt and equity being compared. The CAPM uses U.S. Treasury Bonds and, typically, the return of the S&P 500 as proxies for the risk-free rate and overall market return, respectively. However, BIE explains its result can be manipulated based on the inputs used; therefore, it introduces a greater amount of subjectivity with respect to determining the cost of equity of a given company.[186] CAPM has also been subject to criticism from academic literature.[187]

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184 *UGI Utilities, Inc. – Electric Division* at 103-106.

185 I&E Statement No. 2 at 18.

186 I&E Statement No. 2 at 18.

187 I&E Statement No. 2, p 19.

BIE excluded the RP method from its analysis because it is a simplified version of the CAPM and, in addition to being subject to the same faults listed above, the RP method does not recognize company-specific risk through *beta*.[188] Finally, BIE excluded the CE method from its analysis because the choice of which companies are comparable is subjective, and it is debatable whether historic accounting values are representative of the future. BIE contends the Commission long recognized the problem with this method, and as a result, its historical usage in this regulatory forum has been minimal.[189] Accordingly, the Commission should reject Columbia's equal weighting of various models, and endorse use of the DCF method, with CAPM used as a comparison.

iv. Columbia's Inappropriate Risk Analysis

BIE argues Columbia's rate of return recommendations are grossly overstated by its assignment of several faulty assumptions of risk to Columbia. BIE notes Columbia described the Company's claimed risk factors in two different sub-sections: (1) in "Natural Gas Risk Factors," which describes the *qualitative* risk factors; and (2) in "Fundamental Risk Analysis," the Company describes the *quantitative* risk factors, which discusses the Company's credit quality, as well as many different financial metrics including size, market ratios, common equity ratio, return on book equity, operating ratios, pre-tax interest coverage, quality of earnings, internally generated funds, and *betas*.[190]

a) Risk of Bypass

BIE agrees with Columbia's assertion that the Western Pennsylvania market is unique in that the overlapping territories create "gas on gas" competition; however, BIE contends whatever competition exists is limited to a very small number of competitors and only in overlapping territories. BIE notes Columbia did not provide the number of potential customers

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188 I&E Statement No. 2 at 20.

189 I&E Statement No. 2 at 20.

190 Columbia Statement No. 8 at 10-15.

affected, nor did it reveal the size of Columbia's territory that is overlapped by NGDC competitors. Additionally, BIE contends that to the degree that customers must absorb switching costs to move from one NGDC to another, competition will be discouraged. Because insufficient information has been provided, the risk of bypass in overlapping territories cannot be substantiated. BIE argues, beyond the claimed risk of bypass resulting from overlapping territories of competitors, Columbia faces no more risk than any of the companies in the proxy group, and the cost of equity measured by the proxy group adequately compensates investors for the risk of bypass.[191] BIE believes that the cost of equity measured by the proxy group adequately compensates investors for the risk of bypass and therefore should be adopted.

b) Replacing Aging Infrastructure

BIE notes Columbia claimed the Company incurs additional risk because required capital expenditures to replace aging infrastructure do not increase the Company's customer base.[192] The Company stated it anticipates total capital expenditures over the next five years will equal 93% of the net utility plant service at December 31, 2018.[193]

BIE asserts every gas utility faces the same issues of upgrading or replacing its infrastructure. As costs for replacing infrastructure increase, Columbia, like any other regulated gas utility, has the option to file a base rate case at any time to address revenue inadequacy due to increasing costs, infrastructure replacement, or any other associated issues. Base rate cases allow a utility to recover its costs and provide it with the *opportunity* to earn a reasonable return on capital investments.[194] Additionally, Columbia asserted the Commission offers risk reducing mechanisms such as the DSIC and the FPFTY to help reduce any regulatory lag in recovery of infrastructure investment or other unforeseen expenditures.[195] However, BIE notes these

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191 I&E Statement No. 2-SR at 33.

192 Columbia Statement No. 8 at 9.

193 Columbia Statement No. 8 at 9.

194 I&E Statement No. 2 at 33.

195 Columbia Statement No. 8 at 7.

mechanisms were not designed to eliminate the need for periodic base rate case filings.[196] For the reasons discussed above, BIE rejects Columbia's position that replacing infrastructure increases Columbia's risk.

c) Potential Discontinuation of the Weather Normalization Adjustment Mechanism and Refusal of the Revenue Normalization Adjustment

BIE notes Columbia argued that, "[I]f the Company is unable to continue with its WNA rate design and is not authorized to adopt the RNA mechanism, its risk will increase above that of the Gas Group that serves as a basis to measure the Company's cost of equity..."[197]

However, BIE argues it is correct in its assertion that the Commission allows utilities the opportunity to propose alternative ratemaking mechanisms, and Columbia has requested continuation of its WNA, albeit with modification, and proposed an RNA in this proceeding. The Company currently does not have an RNA mechanism in place; therefore, its refusal will not increase risk to the Company. However, if the Commission approves the Company's RNA proposal, its overall risk will decrease as a result. Further, BIE points out Columbia did not produce evidence demonstrating the Gas Group companies employ either the WNA mechanism that is already authorized for Columbia, nor the RNA mechanism that Columbia has proposed.[198]

In rebuttal testimony, Columbia reiterates its position that the loss of the weather normalization adjustment will materially increase the Company's risk and would require a return greater than his proxy group.[199] BIE argues that, as Columbia did not lend any support for this argument, its position to not factor in WNA and RNA into the Company's risk analysis is appropriate and should be adopted.

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196 I&E Statement No. 2 at 33.

197 Columbia Statement No. 8 at 7.

198 I&E Statement No. 2 at 34-35.

199 Columbia Statement No. 8-R at 37.

d) Risk Analysis Summary

BIE points out Columbia contended it is necessary to establish a company's relative risk position within its industry through an analysis of quantitative and qualitative factors, and used various financial metrics to compare Columbia to the S&P Public Utilities Index, and the Gas Group.[200] BIE then notes that, throughout the remainder of its "fundamental risk analysis," Columbia makes four statements to indicate that the Company has no more of a risk than any other company in his Gas Group. First, while discussing the common equity ratio, Columbia asserts, "The five-year average common equity ratios, based on permanent capital, were 55.5% for CPA, 53.2% for the Gas Group, and 43.0% for the S&P Public Utilities. The Company's common equity was fairly similar to the Gas Group, thereby indicating similar risk."[201] Second, regarding operating ratios, Columbia states, "The five-year average operating ratios were 75.5% for the Company, 84.7% for the Gas Group, and 79.0% for the S&P Public Utilities. The Company's operating ratios were somewhat lower than the Gas Group, thereby indicating lower risk."[202] Third, concerning coverage, the Company states, "Excluding Allowance for Funds Used During Construction (AFUDC), the five-year average pre-tax interest coverage was 4.64 times for the Company, 4.41 times for the Gas Group, and 3.32 times for the S&P Public Utilities. The interest coverages were fairly similar for the Company and the Gas Group, thereby indicating similar risk."[203] Finally, concerning internally generated funds, Columbia states, "Historically, the five-year average percentage of IGF to capital expenditures was 66.5% for the Company, 66.6% for the Gas Group and 78.6% for the S&P Utilities. Had the Company paid dividends in recent years, its IGF would have been weaker. BIE contends the Company's average IGF to construction percentage has been similar to that of the Gas Group, thereby signifying similar risk.[204]

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[200] Columbia Statement No. 8 at 10.

[201] Columbia Statement No. 8 at 13.

[202] Columbia Statement No. 8 at 13.

[203] Columbia Statement No. 8 at 13.

[204] Columbia Statement No. 8 at 14.

BIE points out that, while some measures Columbia discusses may imply a higher risk profile for the Company, the Company provides other more convincing measures that illustrate the Company has lower risk. Overall, through its own analysis and testimony, Columbia substantiates it has very similar risk, or arguably, even lower risk as compared to that of its Gas Group.[205] Therefore, the Company's rate of return recommendations are also grossly overstated by its assignment of several faulty assumptions of risk to itself such as the risk bypass, infrastructure replacement, and the discontinuance of WNA and refusal of RNA and should be rejected.

v. Columbia's Inflated Growth Rates Used in DCF Analysis

BIE notes Columbia employed a growth rate of 7.50% based upon the growth rates for its Gas Group which was listed as 5.24% by IBES/First Call, 6.59% by Zacks, 7.00% by Morningstar and 10.17% by *Value Line*.[206] Columbia used 7.50% growth rate, claiming that continued infrastructure spending argues for a DCF growth rate near the high end of the range.[207] BIE argues a reasonable growth rate for Columbia would be 6.53% and disagrees with Columbia's inclusion of *Value Line*'s 26.50% growth estimate for Northwest Natural Gas Co. BIE opines that while the five-year projected growth rates can be used in analyses, one must be aware that analysts' estimates may be biased, and cites to an article written by Professors Ciciretti, Dwyer, and Hasan in 2009, who observed strong support of earnings forecasts being higher than actual earnings.[208] In spring of 2010, McKinsey On Finance presented an article reporting that after a decade of stricter regulation, analysts' forecasts are still overly optimistic.[209]

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[205] I&E Statement No. 2 at 36.

[206] Columbia Statement No. 8 at 25.

[207] Columbia Statement No. 8 at 26.

[208] Ciciretti, Rocco; Dwyer, Gerald R; and Iftekhan Hasan. "Investment Analysts' Forecasts of Earnings" Federal Reserve Bank of St. Louis *Review*, September/October 2009, 91 (5, part 2) at 545-67.

[209] Goedhart, Marc J; Raj, Rishi; and Abhishek Saxena. "Equity analyst: Still too bullish" McKinsey On Finance Number 35 Spring 2010 at 14-17.

BIE contends that analysts' estimates are an attempt to forecast future cash flows and thus expected earnings growth. However, BIE argues prudent judgment must be exercised as to the sustainability of forecasted growth rates with respect to the base earnings. If the base year earnings are abnormally high, the growth rates from which they are calculated will be biased downward. Similarly, if the base year earnings are abnormally low, the growth rates from which they are calculated will be biased upward. As a result, BIE asserts it is typically necessary to employ a methodology to smooth out the abnormally high or low base year earnings.[210] Columbia argued against BIE's growth rate in rebuttal testimony, asserting that BIE adjusted the actual calculated growth rate of 7.64% for the proxy group and instead used a rate of 6.52%.[211] Columbia opines BIE erroneously eliminated the *Value Line* earnings forecast projection for Northwest Natural Gas from its analysis.[212]

BIE argues *Value Line*'s projected earnings growth estimate for Northwest Natural Gas is clearly an outlier. The estimate of 26.50% is more than 3.5 times higher and greater than three standard deviations over the originally calculated 7.64% overall average. Furthermore, BIE contends the estimate is almost four times higher than the average of the remaining estimates. Including this anomaly in the analysis would have an unreasonable and unwarranted impact on the DCF analysis and would be harmful to ratepayers as it creates an unjustified increase in return on equity and consequently puts upward pressure on rates, which is not in the public interest.[213]

BIE notes in the past it removed growth estimates in its analysis that would have lowered a company's return on equity calculation.[214] In those proceedings, BIE believed the

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210 I&E Statement No. 2 at 34.

211 Columbia Statement No. 8-R at 18.

212 Columbia Statement No. 8-R at 19.

213 I&E Statement No. 2-SR at 17-18.

214 *See* I&E Rate of Return Testimony in PECO Energy Company – Electric Division proceeding at Docket No. R-2018-3000164 and the Duquesne Light Company proceeding at Docket Nos. R-2018-3000124 and R-2018-3000829.

growth projections for some of the proxy group companies in those proceedings were extremely inconsistent and would have had an unnecessary and unwarranted negative impact on the DCF analysis, adversely affecting BIE's recommendation for the cost of common equity.

BIE notes OCA disagreed with BIE's recommendation on growth rate and with BIE's use of only using forecasted growth rates in the DCF analysis. OCA opined historical growth rates as well as forecasted growth rates should be used as this would provide a more complete picture and given the inherent uncertainties of the COVID-19 pandemic.[215]

BIE disagrees with OCA. BIE contends it used forecasted growth rates for the DCF recommendation to estimate a cost of equity that is forward looking. The growth rate forecasts are made by analysts who are aware of both the historic events of each company and what is expected both at a company and industry level. The past performance of a company is taken into account in a growth rate forecast, and although past performance can be a valuable piece of information, BIE argues OCA's method of relying on it for a DCF analysis causes the recommendation to place too much weight on past performance.[216]

BIE contends it still disagrees with including *Value Line*'s projected earnings growth for Northwest Natural Gas as it is clearly an outlier and would have an unreasonable and unwarranted impact on the DCF analysis. This impact would be harmful to ratepayers as it creates an unjustified increase in return on equity and consequently puts upward pressure on rates, which is not in the public interest. Additionally, only forecasted growth rates should be used as growth rates to estimate a cost of equity as it is forward looking. The growth rate forecasts are made by analysts who are aware of both the historic events of each company and what is expected both at a company and industry level where past performance of a company is taken into account in a growth rate forecast. Therefore, BIE recommends the Commission accept its growth rate of 6.52%.

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[215] OCA Statement No. 3R at 8-9.

[216] I&E Statement No. 2-SR at 17-18.

vi. Columbia's Inappropriate Leverage Adjustment Applied to DCF Analysis

BIE explains that financial leverage is the use of debt capital to supplement equity capital. A firm with significantly more debt than equity is highly leveraged. Generally, a market-to-book ratio is used to evaluate a public firm's equity value, which is done by comparing a company's equity market value to a company's equity book value.[217]

BIE notes Columbia proposed to make a 172-basis point "leverage" adjustment to the results of the DCF analysis to account for applying a market-determined cost of equity to a book value capital structure.[218] BIE notes Columbia did not propose to change the capital structure of the utility (a leverage adjustment), nor does it propose to apply the market-to-book ratio to the DCF model (a market-to-book adjustment). Instead, the Company proposed to make a novel adjustment to account for applying the market value cost rate of equity to the book value of the utility's equity. Columbia stated the market-derived cost of equity needs to be adjusted to take into consideration the difference in financial risk, in order to make the DCF results relevant to a book value capital structure.[219] Columbia contended this is because market valuations of equity are based on market value capital structures, which in general have more equity, less debt, and, therefore, less risk than book value capital structures.[220]

BIE argues its thorough analysis of Columbia's leverage adjustment debunks any purported validity. BIE contends rating agencies assess financial risk based upon a company's booked debt obligations and the ability of its cash flow to cover the interest payments on those obligations. The agencies use a company's financial statements for their analysis, not market

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[217] I&E Statement No. 2 at 39.

[218] Columbia Statement No. 8 at 30.

[219] Columbia Statement No. 8 at 27.

[220] BIE points out Columbia tried to justify the leverage adjustment and admitted: I know of no means to mathematically solve for the 1.72% leverage adjustment by expressing it in the terms of any particular relationship of market price to book value. The 1.72% adjustment is merely a convenient way to compare the 11.91% return computed directly with the Modigliani & Miller formulas to the 10.19% return generated by the DCF model based on a market value capital structure. Columbia Statement No. 8 at 2-30.

capital structure. The income statement reflects the financial risk of a company because it represents the performance of the company over a certain period of time. A change in the market value of the stock is not reflected in the income statement nor is a change in market value capital structure reflected in the book value capital structure unless treasury stock is purchased. It is a company's financial statements that affect the market value of the stock and, therefore, the financial statements and the book value capital structure that is relied upon in an analysis such as that done by rating agencies.[221]

BIE notes the Commission has granted this adjustment on occasion, but it has also clearly rejected it in three recent cases. First, in *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.* at Docket No. R-00072711 (Order Entered July 31, 2008) at 38, the Commission rejected the ALJ's recommendation for a leverage adjustment stating, "[t]he fact that we have granted leverage adjustments in the past does not mean that such adjustments are indicated in all cases."

Second, in *Pa. Pub. Util. Comm'n v. City of Lancaster – Bureau of Water* at Docket No. R-2010-2179103 (Order Entered July 14, 2011) at 79, the Commission agreed with the BIE's position and stated, "any adjustment to the results of the market based DCF are unnecessary and will harm ratepayers. Consistent with our determination in *Aqua 2008* there is no need to add a leverage adjustment."

Third, in the most recent case of *Pa. Pub. Util. Comm'n v. UGI Utilities, Inc. – Electric Division* at Docket No. R-2017-2640058 (Order Entered October 25, 2018) at 93-94, the Commission agreed with the BIE position and stated, "we conclude that an artificial adjustment in this proceeding is unnecessary and contrary to the public interest. Accordingly, we decline to include a leverage adjustment in our calculation of the DCF cost of equity."[222]

BIE argues Columbia itself supported the BIE argument - that Columbia's proposed leverage adjustment is not needed – when it stated the credit rating agencies are only

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221 I&E Statement No. 2 at 42.

222 I&E Statement No. 2 at 42-43.

concerned with the timely payment of interest and principal by utilities.[223] BIE notes the Company's stated need for the leverage adjustment is based on its assertion that the difference between the book value capital structure and the market value capital structure causes a financial risk difference.[224]

BIE opines that financial risk does relate to the capital structure of a company, but it is created by the financing decisions (the use of debt or equity) and the amount of leverage or debt a company chooses to finance its assets. Financial risk and the book value capital structure of a company are represented in the income statement, part of what is evaluated by rating agencies. BIE points out that Columbia agreed with BIE that credit rating agencies use a company's financial statements in their analysis to assess financial risk and determine creditworthiness.[225]

BIE notes the Company referred to the three recent cases (*Aqua Pennsylvania, Inc.*, *City of Lancaster – Bureau of Water*, and *UGI Utilities, Inc. – Electric Division*) where the Commission rejected a "leverage adjustment." Columbia argued the adjustment proposed in the City of Lancaster case was much different than what it proposed in this proceeding. Additionally, Columbia noted the Commission did not invalidate the use of a "leverage adjustment" in the Aqua Pennsylvania case, even though it declined to make the adjustment in that case. Further, Columbia notes the Commission arrived at an 11.00% return on equity for Aqua by including a separate return increment for management performance." Finally, Columbia asserted the Commission granted basis points for management performance in the UGI Electric case to arrive at the return on equity of 9.85%.[226]

BIE points out Columbia recommends a 172-basis point "leverage adjustment" in this proceeding. To be clear, BIE acknowledges the Commission refused to accept the leverage

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[223] Columbia Statement No. 8-R at 23.

[224] Columbia Statement No. 8 at 26.

[225] Columbia Statement No. 8-R at 23.

[226] Columbia Statement No. 8-R at 24.

adjustment in the *Aqua* case by stating "…we reject the ALJ's recommendation to allow a 65 basis point leverage adjustment."[227] BIE contends the management performance points awarded to Aqua were case-specific and in no way are related to the proposed leverage adjustment. Regarding the *Lancaster* case, the Commission did not reject the leverage adjustment based on the manner in which it was calculated, but rather, the Commission stated, "…the ALJ's recommendation is in error as any adjustment to the results of the market based DCF as we have previously adopted are unnecessary and will harm ratepayers."[228] Regarding the UGI Electric case, the Commission concluded that, "…an artificial adjustment in this proceeding is unnecessary and contrary to the public interest. Accordingly, BIE declines to include a leverage adjustment in our calculation of the DCF cost of equity."[229]

Columbia's assertion - that an investor is concerned with the return earned on dollars invested and not "some accounting value of little relevance to them"[230] - BIE argues is unsupported. BIE contends an investor clearly takes financial risk into consideration when determining a required return. In addition, BIE asserts the market capitalization information included in *Value Line*'s reports and discussed by Columbia is not the same as market value capital structure.[231] BIE explains that market capitalization refers to the number of shares outstanding multiplied by the current price. A market value capital structure refers to the ratio of market debt to market equity, which is not included in *Value Line*'s reports. Therefore, BIE argues Columbia offers no support for its contention that *Value Line* includes market capitalization data. BIE contends Columbia did not show a leverage adjustment is needed nor has the Company supported its claim for one, therefore, BIE recommends Columbia's leverage adjustment be rejected.

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227 *Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00072711 at 38-39 (Order Entered July 31, 2008).

228 *Pa. Pub. Util. Comm'n v. City of Lancaster – Bureau of Water*, Docket No. R-2010-2179103 at 79 (Order Entered July 14, 2011).

229 *Pa. Pub. Util. Comm'n v. UGI Utilities, Inc. – Electric Division,* Docket No. R-2017-2640058 at 93-94 (Order Entered October 25, 2018).

230 Columbia Statement No. 8-R at 25.

231 Columbia Statement No. 8-R at 25.

vii. Columbia's Inflated *Betas* Used in CAPM Analysis

BIE notes Columbia used the same logic for inflating its CAPM betas from 0.66 to 0.83 that it used to enhance the DCF returns, through a financial risk or "leverage" adjustment.[232] BIE asserts such enhancements are unwarranted for *beta* in a CAPM analysis for the same reasons that enhancements are unwarranted for DCF results.[233] Also, if the unadjusted *Value Line betas* do not reflect an accurate investment risk as Columbia contends, the question naturally arises as to why *Value Line* does not publish *betas* that are adjusted for leverage. Until this type of adjustment is demonstrated in the academic literature to be valid, BIE argues such leverage-adjusted *betas* in a CAPM model should be rejected. Furthermore, BIE notes the Commission found no basis to add leverage-adjusted *betas* in the recently litigated UGI Electric base rate case.[234]

BIE contends Columbia's adjustment only serves to inflate the result of its CAPM analysis. BIE argues enhancements such as leverage adjusted *betas* are unwarranted in CAPM analyses for the same reasons that enhancements are unwarranted for DCF results. Until this type of adjustment is demonstrated in academic literature to be valid, such leverage-adjusted *betas* in a CAPM should be rejected.[235]

viii. Columbia's Inappropriate Size Adjustment Applied to CAPM Analysis

BIE points out Columbia proposes a 102-basis point addition to its indicated common equity cost rate, in addition to the inflated return on equity resulting from Columbia's faulty methods described above, because Columbia argues, as the size of a firm decreases, its

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[232] I&E Statement No. 2 at 44 (*citing* Columbia Statement No. 8 at 35-36).

[233] I&E Statement No. 2 at 44.

[234] *Pa. Pub. Util. Comm'n v. UGI Utilities, Inc. – Electric Division*, Docket No. R-2017-2640058 at 100 (Order Entered October 25, 2018).

[235] I&E Statement No. 2-SR at 26.

risk and required return increases.[236] To support its claim, Columbia relies upon technical literature including Morningstar's Stocks, Bonds, Bills, and Inflation Yearbook, a Fama and French study entitled "The Cross-Section of Expected Stock Returns," and an article published in Public Utilities Fortnightly entitled "Equity and the Small-Stock Effect".[237]

BIE contends it rebutted Columbia's claims by citing the variance year-to-year of returns for large- and small-capitalization stocks listed on the NYSE, AMEX, and NASDAQ.[238] BIE also opines Columbia's size adjustment is unnecessary because none of the technical literature cited as supporting investment adjustments related to the size of a company is specific to the utility industry. Accordingly, BIE contends such an adjustment is not appropriate.[239]

BIE cites to an article which is specific to the utility industry and which states a size adjustment for risk is not applicable to utility companies.[240] In the article "Utility Stocks and the Size Effect: An Empirical Analysis," Dr. Annie Wong concludes:

> After controlling for equity values, there is some weak evidence that firm size is a missing factor from the CAPM for the industrial but not for utility stocks. This implies that although the size phenomenon has been strongly documented for the industrials, the

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[236] Columbia Statement No. 8 at 39.

[237] Columbia Statement No. 8 at 39.

[238] I&E Statement No. 2-SR at 28-29 (*citing* Ibbotson Stocks, Bonds, Bills & Inflation: 2015 Yearbook at 100, 109, 112 ("While the largest stocks actually declined in 2001, the smallest stocks rose more than 30%. A more extreme case occurred in the depression-recovery year of 1933, when the difference between the first and 10th decile returns was far more substantial. The divergence in the performance of small- and large- cap stocks is evident. In 30 of the 89 years since 1926, the difference between the total returns of the largest stocks (decile 1) and the smallest stocks (decile 10) has been greater than 25 percentage points…. In four of the last 10 years, large-capitalization stocks (deciles 1-2 of NYSE/AMEX/NASDAQ) have outperformed small-capitalization stocks (deciles 9-10). This has led some market observers to speculate that there is no size premium. But statistical evidence suggests that periods of underperformance should be expected…. Because investors cannot predict when small-cap returns will be higher than large-cap returns, it has been argued that they do not expect higher rates of return for small stocks.")).

[239] I&E Statement No. 2 at 46.

[240] I&E Statement No. 2 at 47.

> findings suggest that there is no need to adjust for the firm size in utility rate regulation.[241]

BIE notes Columbia attempts to refute Dr. Wong's study by referencing the Fama/French study, "The Cross-Section of Expected Stock Returns," to illustrate that its size adjustment is a separate factor from *beta* which helps explain systematic risk and returns. Columbia argues the distinction between regulated utilities and unregulated industrial companies from the technical literature it cites is not enough to reject Columbia's size adjustment and the size adjustment he derived from the Ibbotson study included public utilities. Columbia also states enormous changes have occurred in the industry since Dr. Wong's article was published.[242]

Although Columbia claims enormous changes have occurred in the industry since the 1960s, the Company presents no evidence that these "changes" have caused the need for a size adjustment. BIE argues that, to the contrary, Dr. Wong's study demonstrates that one does *not* need to be made in the regulated utility industry. Absent any credible article to refute Dr. Wong's findings, BIE contends Columbia's size adjustment to its CAPM results should be rejected.[243] BIE recommends the Commission deny Columbia's claimed size adjustment.

ix. BIE's Proposal

a) Introduction

BIE recommends a 9.86% return on common equity, which is based upon a similarly situated proxy group of companies for purposes of determining capital structure, will best balance the interests of the ratepayers and the Company.

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241 Wong, Annie, "Utility Stocks and the Size Effect: An Empirical Analysis" *Journal of the Midwest Finance Association* (1993) at 95-101.

242 Columbia Statement No. 8-R at 28-29.

243 I&E Statement No. 2-SR at 29.

b) Proxy Group

BIE notes a proxy (or barometer) group is a group of companies that act as a benchmark for determining the utility's rate of return. A proxy group is also typically used because using data exclusively from one company may be less reliable than using a group of companies. The data for one company may be subject to short-term anomalies that distort its return on equity, but the use of a proxy group smooths these potential anomalies. Use of a proxy group also satisfies the long-established principle of utility regulation that seeks to provide the utility the opportunity to earn a return equal to that of similar risk enterprises.[244]

BIE explains its expert witness selected a proxy group comprised of Atmos Energy Corp.; Chesapeake Utilities Corp.; NiSource Inc.; Northwest Natural Holding Co.; ONE Gas, Inc.; South Jersey Industries; and Spire Inc,[245] using the following criteria:[246]

1. Fifty percent or more of the company's revenues must be generated from the regulated electric utility industry;
2. The company's stock must be publicly traded;
3. Investment information for the company must be available from more than one source, which includes *Value Line*;
4. The company must not be currently involved in an announced merger or acquisition at the time of this analysis;
5. The company must have four consecutive years of historic earnings data; and
6. The company must be operating in a state that has a deregulated gas utility market.

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[244] I&E Statement No. 2 at 6-7.

[245] I&E Statement No. 2 at 9.

[246] I&E Statement No. 2 at 7-8.

c) BIE's Discounted Cash Flow Analysis

BIE notes its expert applies the DCF method to the proxy group of similar utilities to calculate a fair return on equity, although BIE acknowledges there are four methods commonly presented to estimate the cost of common equity.[247] BIE asserts its expert's analysis is in accordance with the Commission's historical use of DCF as the primary methodology to determine a utility's cost of equity.[248]

BIE explains the DCF is the "dividend discount model" of financial theory, which maintains that the value (price) of any security or commodity is the discounted present value of all future cash flows. The DCF model assumes that investors evaluate stocks in the classical economic framework, which maintains that the value of a financial asset is determined by its earning power, or its ability to generate future cash flows.[249] BIE asserts the DCF model recognizes the time value of money, is forward-looking, and has wide-spread regulatory acceptance. In addition, BIE asserts its expert confirms the reasonableness of his DCF calculation with a comparison to the CAPM results because the Commission has expressed an interest in having results from another methodology as a point of comparison. While the CAPM is also forward-looking and is based on the concept of risk and return, BIE contends the CAPM and the other methodologies have flaws that should discount their use as primary determinants.[250]

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[247] The four include the DCF Model, the CAPM, the Risk Premium ("RP") Method, and the Comparable Earnings ("CE") Method. I&E Statement No. 2 at 15. I&E witness Keller provided a brief overview of each method. I&E Statement No 2 at 15-16.

[248] *See Pa. Pub. Util. Comm'n v. UGI Utilities, Inc. – Electric Division,* Docket No. R-2017-2640058 (Order Entered October 25, 2018) ("*UGI Utilities, Inc. – Electric Division"*) at 104-106, 121; *Pa. Pub. Util. Comm'n v. City of DuBois – Bureau of Water*, Docket No. R-2016-2554150 (Order Entered March 28, 2017) ("*City of DuBois – Bureau of Water*") at 96-98; *Pa. Pub. Util. Comm'n v. PECO Energy Company*, 87 Pa. PUC 184, 212 (Pa. P.U.C. 1997); *Pa. Pub. Util. Comm'n v. Philadelphia Suburban Water Co*., 71 Pa. PUC 593, 623-32 (Pa. P.U.C. 1989); *Pa. Pub. Util. Comm'n v. Western Pa. Water Co*., 67 Pa. PUC 529, 559-70 (Pa. P.U.C. 1988); *Pa. Pub. Util. Comm'n v. Consumers Pa. Water Co. – Roaring Creek Division*, 87 Pa. PUC 826 (Pa. P.U.C. 1997); *Pa. Pub. Util. Comm'n v. Bethlehem*, 84 Pa. PUC 275, 304-05 (Pa. P.U.C. 1995); *Pa. Pub. Util. Comm'n v. Media Borough*, 77 Pa. PUC 446, 481 (Pa. P.U.C. 1992).

[249] I&E Statement No. 2 at 15.

[250] I&E Statement No. 1 at 17-20.

BIE contends its recommendation for a cost of common equity of 9.86% includes a dividend yield of 3.34% and a recommended growth rate of 6.52%.[251] BIE explains its expert's analysis uses a spot dividend yield, a 52-week dividend yield, and earnings growth forecasts, and he uses the standard DCF model formula ($K = D_1/P_0 + g$), where K = the cost of equity, D_1 = the dividend expected during the year; P_0 = the current price of the stock; and g = the expected growth rate. When a forecast of D_1 is not available, D_0 (the current dividend) must be adjusted by ½ the expected growth rate in order to account for changes in the dividend paid in period one.[252]

i) Dividend Yields

BIE notes a representative yield must be calculated over a time frame sufficient to avoid short-term anomalies and stale data. BIE asserts its expert's dividend yield calculation places equal emphasis on the most recent spot (3.47%) and the 52-week average (3.20%) dividend yields resulting in an average dividend yield of 3.34%.[253]

ii) Growth Rates

BIE points out its expert used earnings growth forecasts to calculate the expected growth rate. The earnings forecasts are developed from projected growth rates using 5-year estimates from established forecasting entities for the proxy group of companies, yielding an average 5-year growth forecast of 6.52%.[254]

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[251] I&E Statement No. 2 at 25.

[252] I&E Statement No. 2 at 22.

[253] I&E Statement No. 2 at 22-23.

[254] I&E Statement No. 2 at 23-25.

iii) Comparison to CAPM

BIE notes its expert's analysis of a return on equity using the CAPM methodology uses the standard CAPM formula [$K = R_f + \beta(R_m - R_f)$], where K = the cost of equity, R_f = the risk-free rate of return; β = beta, which measures the systematic risk of an asset, and R_m = the expected rate of return on the overall stock.[255] For the CAPM analysis, the expert chose the risk-free rate of return (R_f) from the projected yield on 10-year Treasury Bonds as the most stable risk-free measure. With this choice, BIE contends its expert balanced out issues related to use of long term bonds and short term T-Bills.[256] For the beta, BIE's expert then used the average of the betas from the *Value Line* Investment Survey.[257] To arrive at a representative expected return on the overall stock market, BIE's expert reviewed *Value Line*'s 1700 stocks and the S&P 500 Index. BIE contends the result of the overall stock market returns based on the CAPM analysis is 10.35%,[258] which, in turn, yields a cost of equity result of 8.72%.[259]

BIE notes Columbia attempted to rebut the use of the yield on 10-year Treasury notes and claimed a 30-year Treasury bond is more appropriate because a longer-term bond is less susceptible to Federal policy actions.[260] BIE argues the choice to use the 10-year Treasury bond is more appropriate because long-term bonds are susceptible to substantial maturity risk associated with the market risk and also bear the risk of unexpected inflation.[261] Furthermore, BIE points out the Commission recently agreed with BIE and recognized the 10-year Treasury Note as the superior measure of the risk-free rate of return.[262] BIE contends the use of the yield

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[255] I&E Statement No. 2 at 25.

[256] I&E Statement No. 2 at 27.

[257] I&E Statement No. 2 at 26.

[258] I&E Statement No. 2 at 28.

[259] I&E Statement No. 2 at 28.

[260] Columbia Statement No. 8-R at 26.

[261] I&E Statement No. 2-SR at 23.

[262] *Pa. Pub. Util. Comm'n v. UGI Utilities, Inc. – Electric Division,* Docket No. R-2017-2640058 at 99 (Order Entered October 25, 2018).

on the 10-year Treasury bond is appropriate and, based upon Commission precedent, should be accepted.

BIE acknowledges Columbia further claimed BIE gave the incorrect weight to the 10-year Treasury note in two quarters of 2020 and three quarters of 2021, and Columbia suggested giving equal weight to each year from 2021 to 2026.[263] BIE argues Columbia fails to consider the flaw with this equal weighting approach is that the further out into the future one forecasts, the less reliable and more speculative the estimates become. Accordingly, to give the less reliable estimates equal weight would not be prudent. BIE insists its recommended calculation provides a more accurate estimation of the risk-free rate during the Fully Projected Future Test Year, as the further out one forecasts, the less reliable the information becomes.[264]

BIE also notes OCA's expert claimed BIE's use of a 10.35% forecasted market return is not realistic given the current economic situation even when examining market trends prior to the impacts felt by the COVID-19 pandemic.[265] BIE points out that both BIE and OCA agree that, "[t]he development of the current market risk premium is, undoubtedly, the most controversial aspect of the CAPM calculations".[266] It is generally accepted that each witness uses a variety of trusted sources in determining the overall market rate of return as well as a degree of professional judgment. As a result, the subjectivity of the CAPM variables allows for such a wide range and interpretations, unlike the DCF that uses specific and defined inputs.[267]

BIE points out its expert gave no specific weight to his CAPM results because of the concern that, unlike the DCF - which measures the cost of equity directly by measuring the discounted present value of future cash flows - the CAPM measures the cost of equity indirectly

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263 Columbia Statement No. 8-R at 26-27.

264 I&E Statement No. 2-SR at 24.

265 OCA Statement No. 3R at 10.

266 OCA Statement No. 3 at 65.

267 I&E Statement No. 2-SR at 25.

and can be manipulated by the time period used.[268] BIE submits that, for purposes of providing another point of comparison, the 8.72% CAPM analysis confirms the reasonableness of BIE's recommendation of a 9.86% return under the DCF calculation.[269]

d) Increment for Management Effectiveness

BIE notes Columbia explained its 10.95% cost of equity recommendation includes 20 basis points in consideration of the Company's exemplary management performance.[270] The Company's rationale to support its management performance claim includes Columbia's management performance as demonstrated, *inter alia*, through enhanced safety measures, an accelerated infrastructure replacement plan, superior results in the Commission's Management Performance Audit and the Commission's UCARE reports, its PAR rate, Quality of Service Performance report, and its result in the 2019 J.D. Power Residential Customer Satisfaction Survey.[271] BIE argues Columbia's upward adjustment is inappropriate and unsupported..

BIE cites to an example to illustrate the impact of 20 additional basis points to the Company's cost of equity:

Columbia Gas of Pennsylvania, Inc.[272]

Claimed Equity Percentage of Capital Structure	54.19%
Additional Basis Points to Calculated Cost of Equity	20
Claimed Rate Base*	$2,401,427,019
Total Impact	**$2,602,667**

268 I&E Statement No. 2 at 29. I&E witness Keller's presentation of a CAPM analysis serves as a check on his DCF analysis. For the reasons set forth in I&E witness Keller's direct testimony, the DCF model should be used as the primary method in determining a fair return on equity.

269 I&E Statement No. 2-SR at 38.

270 Columbia Statement No. 8 at 5.

271 Columbia Statement No. 1 at 18-39.

272 I&E Statement No. 2 at 48; Columbia Exhibit 102, Schedule 3 at 3.

BIE explains the addition of 20 basis points to the cost of equity would force ratepayers to fund an unwarranted additional amount of $2,602,667 in rates.[273] BIE disagrees with the Company's management performance adjustment. BIE argues that, although the Company touts its Management Audit scores against other NGDC's, there is room for improvement. BIE points out that, according to the Commission's recently issued Management and Operations Audit for Columbia Gas of Pennsylvania, Inc.,[274] the following deficits are illustrated regarding Columbia's customer service:

- Page 53 – Columbia's metering and billing policies and procedures are outdated;
- Page 53 – Columbia's average arrearages were higher throughout the audit period compared to a panel average of Pennsylvania natural gas distribution companies;
- Page 56 – Columbia's revenue recovery has not developed net collection performance goals with which to manage its third-party collection efforts;
- Page 58 – NiSource Corporate Services Company does not have a documented theft of service program; and
- Page 58 – Columbia's customer service representative turnover is higher than at other like utilities.

BIE contends that Columbia's customer service area is an area of management and operations over which the Company has complete and direct control. BIE argues, however, that if the Commission awards the Company management effectiveness points, these points will cost Columbia's customers money for service that can and should be improved. BIE notes any savings from effective operating and maintenance cost measures should flow through to ratepayers and/or investors. These claimed savings by Columbia would likely be offset by the addition of basis points for management effectiveness as ratepayers would be forced to fund the additional costs. This funding of additional costs by ratepayers defeats the purpose of cutting

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273 I&E Statement No. 2 at 48. The sum of $2,602,667 is derived from the calculation: 0.5419 x 0.0020 x $2,401,427,019.

274 The management audit was issued in June 2020 at Docket No. D-2019-3011582.

expenses to benefit ratepayers. BIE stresses that the Commission should ensure these cost saving measures flow to ratepayers, especially at this time when so many ratepayers have recently experienced reduced household income as a result of job loss or reduction in hours due to the global pandemic[275] and where the Pennsylvania unemployment rate was 13.7% as of the end of July 2020.[276]

BIE asserts true management effectiveness for any company, ultimately, is earning a higher return through its efficient use of resources and cost cutting measures. The greater net income resulting from growth, cost savings, and true efficiency in management and operations is available to be passed on to shareholders. Further, Columbia should not be granted additional basis points for doing what it is required to do in order to provide adequate, efficient, safe, and reasonable service,[277] i.e., the requirements of 66 Pa.C.S.A. § 1501. Therefore, BIE recommends the Commission reject Columbia's unwarranted management performance points.

3. OCA's Position

a. Introduction

i. Overview of the Cost of Capital Recommendations

OCA notes Columbia seeks an 8.00% overall rate of return, including a 10.95% return on common equity (CPA St. 8 at 1-2; CPA Ex. No. 400 (Updated), Sch. 1) with the following proposed capital structure: 54.19% common equity, 42.22% long-term debt, 3.59% short-term debt. CPA St. 8-R at 5; CPA Ex. No. 400 (Updated), Sch. 1. The Company prepared its direct case based upon financial and market data through December 2019. CPA St. 8R at 7. Also, OCA points out the Company's 10.95% return on common equity includes a 20-basis point premium for management performance. *See* CPA St. 8 at 5, 43; CPA St. 1 at 8-9, 11-17, 18-39.

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275 I&E Statement No. 2 at 48-50.

276 https://www.bls.gov/web/laus/laumstrk.htm, accessed September 3, 2020.

277 I&E Statement No. 2-SR at 36-37.

OCA argues the Company's proposed cost of capital is excessive and OCA asserts it has demonstrated that, under a traditional ratemaking approach, a fair cost of common equity is 8.50% and a fair overall rate of return is 6.51%, based upon a capital structure of 50% debt and 50% common equity. OCA St. 3 at 4; OCA St. 3S at 1, Table 1S. OCA contends it has presented a reasonable cost of capital proposal that accurately portrays the current low-cost capital environment and reflects reasonable returns for investors, balanced with the concern for Columbia consumers who will be paying the increased rates. As OCA also notes, with consumers and small businesses struggling to pay their bills, higher unemployment levels, and periods of business shutdowns, utility rate increases would only exacerbate adverse financial circumstances. OCA St. 3 at 11.

OCA points out BIE demonstrated the Company's proposed cost of capital is excessive and recommended a 9.86% equity cost rate with 7.41% overall cost of capital. I&E St. 2S at 37. However, OCA asserts BIE's recommended cost of capital would also provide the Company with an opportunity to over-earn. OCA points out Columbia presented the following table as a summary of its request: [278]

Capital Type	Capital Structure Ratio (%)	Cost Rate (%)	Weighted Cost (%)
Long-Term Debt	42.22	4.73	2.00
Short-Term Debt	3.59	2.06	0.07
Common Equity	54.19	10.95	5.93
Total	100		8.00

OCA contends Columbia's cost of capital analyses include a leverage adjustment and size adjustment, which increase the models' result, and Columbia added a 20-basis point increment to the indicated cost of equity to recognize management performance. CPA St. 8 at 5, 26-30, 39-40. OCA noted it provided testimony from an expert economic consultant specializing in utility regulation to support its rate of return allowance. In determining an

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[278] CPA Ex. No. 400 (Updated), Sch. 1.

appropriate cost of capital, OCA rejected the Company's capital structure because it was comprised of too much equity and unfair to consumers. OCA St. 3 at 3-4, 29-37. In its place, OCA recommends a capital structure of 50% debt / 50% common equity, with an 8.50% return common equity and an overall return on rate base of 6.51%:[279]

Capital Type	**Capital Structure Ratio (%)**	**Cost Rate (%)**	**Weighted Cost (%)**
Debt	50.00	4.52	2.26
Common Equity	50.00	8.50	4.25
Total	**100**		**6.51**

OCA contends the 8.50 % cost of equity it recommends results from a Discounted Cash Flow (DCF) analysis, and consideration of the Capital Asset Pricing Model (CAPM) and Comparative Earnings analyses. OCA St. 3 at 69-71.

OCA notes BIE presented the testimony of a Fixed Utility Financial Analyst to support its rate of return recommendation of the Cost of Capital is as follows:[280]

Capital Type	**Capital Structure Ratio (%)**	**Cost Rate (%)**	**Weighted Cost (%)**
Long-term Debt	42.22	4.73	1.98
Preferred Stock	3.59	2.06	0.07
Common Equity	54.19	9.86	5.93
Total	100		7.41

OCA argues the Company's 10.95% cost of common equity request exceeds the objective assessment of investor market requirements in the current economic environment and should be rejected. The Company's cost of equity request of 10.95%, inclusive of 20-basis

279 OCA St. 3S at 1 (Table 1S).

280 I&E St. 2S at 37.

points for management performance, is the same rate requested by the Company in its previous 2018 base rate case. OCA St. 3 at 6, 12.

OCA points out that since Columbia's 2018 base rate case, long-term interest rates have fallen on top of the economic impact of the COVID-19 pandemic and extraordinary public safety measures manifesting higher unemployment and reduced household income to pay for basic necessities. OCA St. 3 at 6-19. The Company's recommendation is based on a flawed DCF analysis, and both OCA and BIE agree the return on equity (ROE) adjustments proposed by Columbia are inappropriate, unnecessary and only serve to inflate the Company's equity cost estimate. OCA argues these adders will substantially and unreasonably increase costs for ratepayers if included in the cost of equity determination. *See* OCA St. 3 at 85-88, 78-80, 90-92; *see also* I&E St. 2 at 37-51. OCA opposes the inclusion of these adjustments.

OCA recommends the Company be given the opportunity to earn 8.50% on a common equity ratio of 50%, resulting in an overall allowed return on rate base of 6.51%. OCA St. 3S at 1 (Table 1S). When applied to OCA's recommended rate base, this return will provide the Company with an opportunity to earn a fair rate of return while benefiting consumers with public utility service at reasonable rates, consistent with Pennsylvania law and public policy as set forth in the Public Utility Code. The Commission should adopt the recommendations of OCA as to capital structure, return on equity, and cost of capital. OCA contends its recommendation better reflects a balancing of the needs of the Company's consumers and investors, particularly necessary in these times of uncertainty and hardship for consumers.

4. OSBA's Position

a. Introduction

OSBA notes that, as of October 16, 2020, the yield on the U.S. 10-Year Treasury Bond is 0.73%.[281] OSBA points out the Company requested herein a Return on Equity (ROE) of 10.95%. OSBA asserts Columbia's request is 1,022 basis points above the 10 Year T-Bond.

281 *See* https://www.bloomberg.com/markets/rates-bonds/government-bonds/us.

Accordingly, OSBA contends 1,022 basis points is an unreasonable risk premium, and would be even if this proceeding were a "traditional" base rates case. OSBA argues the Company's ROE request is an absurd premium during the COVID-19 pandemic.

In addition, OSBA asserts Columbia has the audacity to request an upward adjustment to its ROE based upon exemplary management performance. Such a performance adjustment is not only unearned by the management of Columbia; the performance adjustment is totally inappropriate during the COVID-19 pandemic.

b. Capital Structure Ratios

OSBA did not brief this issue.

c. Debt Cost Rate

OSBA did not brief this issue.

d. Return on Common Equity

i. Columbia Proposal

OSBA notes the Company requests an ROE of 10.95% inclusive of an upward adjustment based upon exemplary management performance. OSBA respectfully requests the ALJ and the Commission deny both requests.

ii. Other Parties' Proposals

a) OSBA's Proposed ROE

OSBA points out that Columbia requested an ROE of 10.95% in its previous base rates case.[282] This request occurred during a time period when the 10 Year T-Note was in the 2.8 to 3.0% range.[283] In this proceeding, Columbia again requests an ROE of 10.95% – when the 10 Year T-Note ranges from 0.50 to 0.75%[284]

OSBA contends the Commission awarded UGI Electric an ROE of 9.85% in its Order at Docket R-2017-2640058 (Order entered October 25, 2018). OSBA, UGI Electric was awarded an ROE of 9.85%. OSBA notes the 10 Year T-Note in October of 2018 "was generally a little below 3.0 percent, implying that the Commission awarded UGI Electric a 6.9 percent (690 basis point) risk premium over the 10-year T-bond rate."[285] OSBA acknowledges the COVID-19 pandemic was not in existence during October of 2018. Nevertheless, OSBA suggests - if the Commission uses that 690-basis award as precedent, and uses the 10 Year T-Note rate as of October 16, 2020 – Commission precedent would imply that Columbia should receive an ROE in the 7.63% range.[286]

b) OCA Proposed ROE

OSBA points out OCA proposes an ROE award in the 8.00 to 9.00 percent range, with a recommended value of 8.50 percent which conclusion was reached by using the discounted-cash-flow ("DCF") analysis of the cost of equity capital, consideration of the capital

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282 OSBA Statement No. 1 at 5.

283 OSBA Statement No. 1 at 5.

284 OSBA Statement No. 1 at 5.

285 OSBA Statement No. 1 at 5.

286 *See also* OSBA Statement No. 1 at 3-6.

asset pricing model (CAPM), and the comparable earnings (CE) approach.[287] OSBA notes OCA's recommendation of 8.50% is obviously higher than OSBA's recommended ROE of 7.63%.

OSBA asserts OCA's result is primarily based upon an over-reliance on the DCF model but one significant problem with the DCF model is its circularity. OSBA contends the DCF model relies on market expectations for growth in utility dividends. Since market expectations for dividend growth are necessarily based on the market's expectations for regulatory ROE awards, the DCF tends to perpetuate the status quo and discourage regulators from adjusting ROE awards to reflect market realities.[288] A second problem in the DCF model is "the perpetual nature of the growth assumptions in the model." Given the realities of the impact of fossil fuels on the global climate, OSBA argues OCA assumed a natural gas distribution company's dividend will continue to grow at 5 percent forever but that assumption is hopelessly unrealistic.[289] OSBA argues OCA's witness makes a similar circularity error in that his "CE estimates rely on the assumption that past regulatory awards represent a reasonable proxy for future regulatory awards."[290] However, OSBA contends the changes in the capital markets, as exacerbated by the COVID-19 pandemic, indicate that past regulatory awards are not a reasonable proxy, and thus OCA's CE analysis lacks a credible foundation.

OSBA addresses OCA's CAPM analysis and contends the CAPM results imply the cost of equity capital for NGDCs is far lower than OCA's overall recommendation, ranging from 5.5 to 7.5%. OSBA asserts this finding by OCA's witness is not surprising as the CAPM is a risk premium model, and thus it directly reflects the current low interest rates in the capital markets. OSBA No. 1-R at 24. Thus, OSBA argues OCA's CAPM analysis aligns with and confirms OSBA's recommendation of an awarded ROE of 7.63%. OSBA also observed OCA's witness applied an inappropriate adder to the CAPM risk metric (called "beta") in the

[287] OSBA Statement No. 1-R at 18.

[288] OSBA Statement No. 1-R at 20-21.

[289] OSBA Statement No. 1-R at 21. *See also id.* at 20-23.

[290] OSBA Statement No. 1-R at 23.

calculations.[291] OSBA contends the CAPM results in an awarded ROE in the 5.2 to 7.1% range, when an appropriate CAPM risk factor is used in the analysis.[292]

iii. Increment for Management Effectiveness

OSBA argues Columbia's request for an upward adjustment to its cost-based ROE award is an insult to Columbia's ratepayers, for two reasons. First, demanding a premium from ratepayers during a pandemic is grossly inequitable. Residential customers have experienced unemployment at record levels, forcing many to stand in food lines so that their families can eat. Small businesses have been devastated to the point that a large percentage will never return. Industrial production has been massively affected. Yet Columbia wants to reward their shareholders because "management" did their job, while the Company's ratepayers suffer. Columbia's request that its management be rewarded in this manner is unconscionable.

Second, OSBA asserts recent management failures at Columbia's affiliates indicate that management is undeserving of a reward for exemplary performance. Rather, OSBA asserts Columbia is deserving of the reverse. OSBA's witness testified:

> [T]he massive management failure and criminal negligence of fellow Nisource subsidiary Columbia Gas of Massachusetts in September 2018. ***This admitted criminal behavior*** led to one fatality, a massive disruption to the lives of the residents and businesses of several towns in the Merrimack Valley in Massachusetts, and the required divestiture of that local distribution company by Nisource. ***The Company admits that it also led to the diversion of resources away from planned investments at Columbia Gas of Pennsylvania.*** Moreover, while it would be impossible to quantify, this enormous management failure likely had a negative impact on the cost of debt capital for all Nisource subsidiaries.[293]

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291 OSBA Statement No. 1-R at 24-25.

292 OSBA Statement No. 1-R at 25.

293 OSBA Statement No. 1-R at 25-26 (footnote omitted) (emphasis added).

OSBA respectfully submits that not only should the Commission not give Columbia an upward adjustment in its awarded ROE for its management's performance, the ALJ and the Commission should consider assigning a penalty to Columbia's ROE in this proceeding.

5. CAAP's Position

CAAP did not brief this issue.

6. CAUSE-PA's Position

CAUSE-PA did not take a position on the Rate of Return.

7. CII's Position

CII did not brief any issue concerning Rate of Return.

8. PSU's Position

PSU did not take a position on this issue.

9. ALJ's Recommendations on Rate of Return

a. Capital Structure Ratios

Columbia Gas proposes an 8.00% overall rate of return, including a 10.95% return on common equity (CPA St. 8 at 1-2; CPA Ex. No. 400 (Updated), Sch. 1) with the following proposed capital structure: 54.19% common equity, 42.22% long-term debt, 3.59% short-term debt. CPA St. 8-R at 5; CPA Exh. No. 400 (Updated), Sch. 1. The Company's 10.95% return on common equity includes a 20-basis point premium for management performance and at a time when the 10 Year T-Note ranges from 0.50 to 0.75%. *See* CPA St. 8 at 5, 43; CPA St. 1 at 8-9, 11-17, 18-39; OSBA St. 1 at 5. The Company based its proposal upon

financial and market data through December 2019. CPA St. 8R at 7. Columbia previously requested an ROE of 10.95% in its last base rates case. when the 10 Year T-Note was in the 2.8 to 3.0% range. OSBA St. No. 1 at 5.

The parties, especially Columbia Gas, BIE, OCA and OSBA, provided voluminous arguments about Capital Structure Ratios, Debt Cost Rate and Return on Common Equity. Their positions are well-stated in the Main Briefs and Reply Briefs. The persuasive highlights are included herein.

On **Capital Structure Ratios**, the ALJ recommends the Commission accept the adjustments proposed by OCA because OCA demonstrated, under a traditional ratemaking approach, its proposed capital structure of 50% debt and 50% common equity would lead to just and reasonable rates (OCA St. 3 at 4; OCA St. 3S at 1, Table 1S), and balanced the utility's needs with the concern for Columbia Gas' consumers who will be paying the increased rates. At a time when Columbia Gas' residential and business consumers struggle to pay bills, cope with high unemployment levels and periods of business shutdowns, this utility rate increase with the Company's proposed cost of capital is excessive, and will not lead to reasonable and just rates.

OCA challenged Columbia Gas' proposed capital structure by providing an alternative capital structure that was reasonable. Columbia Gas did not present sufficient evidence to rebut OCA's contrary evidence. The ALJ agrees, based on the evidence presented by all parties, that Columbia Gas' capital structure should be rejected because it contains too much equity and is unfair to consumers. OCA St. 3 at 3-4, 29-37.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission reject Columbia Gas' capital structure and use in its place OCA's capital structure consisting of 50% debt / 50% common equity[294]

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[294] OCA St. 3S at 1 (Table 1S).

On **Increment on Management Effectiveness**, the ALJ agrees with BIE, OCA and OSBA that Columbia Gas failed to provide sufficient evidence to support its proposal to add 20 basis points. Effective operating and maintenance cost measures should flow through to ratepayers and/or investors but the savings Columbia Gas claimed will be offset by the addition of basis points for management effectiveness which ratepayers would be forced to fund. Columbia Gas' proposal for ratepayers to fund these additional costs defeats the purpose of cutting expenses to benefit ratepayers. Instead these cost saving measures should flow to ratepayers, especially during the pandemic when so many ratepayers have experienced reduced household income from job loss or reduction in hours[295] and where the Pennsylvania's unemployment rate was 13.7% as of the end of July 2020.[296]

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission disallow the claim for Increment on Management Effectiveness.

On **Debt Cost Rate**, the ALJ agrees with BIE and Columbia Gas that the Commission should accept Columbia Gas' 4.73% claimed cost rate of long-term debt (Columbia St. 8-R at 6). The Company's claimed cost rate of long-term debt is reasonable, is representative of the industry and falls within the proxy group's implied long-term debt cost range of 3.14% to 5.82% with an average implied long-term debt cost of 4.91%.[297]

The ALJ also agrees with BIE and Columbia Gas that the Commission should accept the Company's claimed cost rate of short-term debt of 2.06%. Columbia Gas' three-month average forecasted LIBOR rate relies upon the most recent information available,[298] although the Blue Chip Financial Forecast for the three-month average forecasted LIBOR rate from the third quarter 2020 to the third quarter of 2021 reflects a cost rate of 0.52%,

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295 I&E Statement No. 2 at 48-50.

296 https://www.bls.gov/web/laus/laumstrk.htm, accessed September 3, 2020.

297 I&E Exhibit No. 1, Schedule 3.

298 I&E Statement No. 2 at 14.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission accept the Company's claimed cost rate of long-term debt and the claimed cost rate of short term debt. However, since the ALJ recommended the Commission use the hypothetical capital structure, as suggested by OCA, the ALJ recommends here the Commission use OCA's blended rate of long term and short term debt costs (equal to 4.52%) which blends the effect of the costs.

On **Return on Common Equity**, the ALJ noted the parties provided a large amount of evidence and lengthy arguments. Columbia Gas' and OCA's proxy groups included nine companies[299] but did not provide a list of criteria used to determine the "Gas Group" other than to assert the Gas Group is made up of the companies the Commission's Bureau of Technical Utility Service (TUS) uses to calculate the cost of equity in its Quarterly Earnings Report.[300] BIE disputed Columbia Gas' proxy group, because Columbia Gas' proxy group included two companies BIE did not use[301] (New Jersey Resources Corp. and Southwest Gas Holdings, Inc.). BIE excluded these two companies because neither met BIE's criterion that fifty percent or more of the company's revenues must be generated from the regulated gas utility industry.[302]

The ALJ agrees with BIE that the Commission should use BIE's proxy group as it is most comparable to Columbia in developing an appropriate cost of equity. BIE's proxy group uses the percentage of revenue as a criterion because revenues represent the percentage of cash flow a company receives from each business line related to providing a good or service. If fewer than fifty percent of revenues come from the regulated gas business sector, a company is not comparable to the subject utility as it does not provide a similar level of regulated business.[303] In the alternative, using the percentage of gas assets to total assets is not an appropriate criterion

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[299] Columbia Exhibit 400, Schedule 3, p. 2.

[300] Columbia Statement No. 8 at 3-4.

[301] I&E Statement 2 at 10.

[302] I&E Statement 2 at 10.

[303] I&E Statement 2-SR at 7 (*Citing* I&E Statement No. 2 at 10).

because it is not always a reliable way of determining if a business is primarily a regulated utility, and there are differences between businesses in the amount of capital needed.[304]

A rate of return allows payment to a utility's debt holders with interest and fair compensation for its equity shareholders and is one of the components of the revenue requirement formula. I&E St. 2 at 2. The rate of return is expressed as the amount of revenue an investment generates in the form of net income and is usually expressed as a percentage of the amount of capital invested over a given period of time. In *Bluefield Water Works & Improvements Co. v. Pub. Serv. Comm'n of W. Virginia*[305] and *Federal Power Commission v. Hope Natural Gas Co.,*[306] the U.S. Supreme Court expressed the legal standards for determining rates of return.

The ALJ agrees with BIE's proposal to calculate the recommended return on equity pursuant to the Discounted Cash Flow methodology and used the Capital Asset Pricing Model as an alternate means to verify the reasonableness of the return. The ALJ recommends the Commission approve the use of the DCF method as the primary method to determine the cost of common equity and to use the results of the CAPM as a comparison to the DCF results,[307] on the grounds its analysis is consistent with the methodology commonly endorsed by the Commission in base rate proceedings.

The ALJ agrees with BIE's reasoning that Columbia Gas' calculated return on equity was flawed for five reasons: (1) the weights given to the results of the Company's CAPM, RP, and CE analyses; (2) certain aspects of Columbia's discussion of risk; (3) Columbia Gas' application of the DCF including the forecasted growth rate and leverage adjustment used; (4) Columbia's inclusion of a size adjustment, reliance on the 30-year Treasury Bond for the risk-

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304 I&E Statement 2-SR at 6.

305 292 U.S. 679 (1923 (*Bluefield*).

306 320 U.S. 591 (1944) (*Hope Natural Gas*).

307 I&E Statement No. 2 at 21.

free rate, and the use of a double-adjusted *beta* in the CAPM analysis; and (5) the Company's request for an additional 20 basis points for "strong management performance" is unjustified.

Though OSBA did not speak to every element on the Rate of Return, the ALJ points out OSBA's argument that Commission precedent implies Columbia Gas should receive a ROE in the 7.63% range. OSBA St. 1 at 3-6. OSBA notes the Commission awarded UGI Electric an ROE of 9.85% in its Order at Docket R-2017-2640058 (Order entered October 25, 2018) when there was no pandemic and when the 10 Year T-Note in October of 2018 "was generally a little below 3.0 percent, implying that the Commission awarded UGI Electric a 6.9 percent (690 basis point) risk premium over the 10-year T-bond rate." OSBA St. 1 at 5. OSBA suggested - if the Commission uses that 690-basis award as precedent and uses the 10 Year T-Note rate as of October 16, 2020 – Commission precedent would imply that Columbia should receive an ROE in the 7.63% range. OSBA St. 1 at 3-6.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission accept BIE's suggestion to calculate the recommended return on equity pursuant to the Discounted Cash Flow methodology, using BIE's proxy group because this analysis is consistent with the methodology commonly endorsed by the Commission in base rate proceedings, will produce rates that are just and reasonable, and will maintain a balance between the needs of ratepayers and the needs of the Company and its investors.

I. Parties' Briefing Positions Concerning Miscellaneous Issues

1. Columbia Gas' Position

a. Low-Income Customer Issues

Columbia explains many programs are available to assist low-income customers, as well as its extensive outreach to promote these programs. *See* Columbia M.B. at 98-99. Columbia suggests the positions of OCA, CAUSE-PA and CAAP should be rejected.

i. Customer Assistance Program

a) CAP Collections

Columbia contends it devotes attention to ensure its CAP customers consistently pay their utility bills. The Company asserts it follows its CAP Collections Policy as set forth in its Commission-approved Universal Service and Energy Conservation Plan, which CAP collections policy provides that Columbia will pursue collections after two missed payments. Columbia contends its CAP Collections Policy is consistent with the Commission's directives in its *CAP Policy Statement Order. See 2019 Amendments to Policy Statement on Customer Assistance Program, Final Policy Statement Order*, Docket No. M-2019-3012599 (Order entered November 5, 2019) ("*CAP Policy Statement Order*").

In addition, Columbia argues its exemplary collection efforts are evidenced by the percentage of CAP bills paid (calculated by dividing the total annual CAP payments by the total annual CAP amount billed) and notes that percentage was the third highest of all Pennsylvania gas utilities.[308] The Company faults OCA's assertions that the percentage does not capture the Company's efforts on unpaid CAP bills as a failure by OCA to recognize the direct correlation between CAP bills paid and the Company's collection efforts, i.e. successful collection efforts result in more CAP bills paid. Columbia contends the higher the percentage of CAP bills paid clearly indicates a lower the percentage of unpaid CAP bills. Further, Columbia faults OCA for relying on data that does not accurately measure Columbia's collection efforts. The Company asserts the data OCA used corresponds to data provided in response to the annual Universal Service Reporting Requirements (USRR), which reflects the receipt of all payments for a customer excluding LIHEAP and Hardship Funds. Columbia points out, however, that LIHEAP funds supplement past, current and future customer payments, so a customer may be current on the CAP bill but have not paid twelve, on time and in full payments in a year due to LIHEAP

[308] Pennsylvania Public Utility Commission Report on 2018 Universal Service Programs & Collections Performance (published December 2019), available at: http://www.puc.state.pa.us/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2018.pdf.

grant credits. Accordingly, Columbia faults OCA for its assumptions regarding collections based on this data is inaccurate. Columbia St. No. 13-R at 1-3.

Columbia insists OCA used data which omits crucial LIHEAP funds, thus negating the ability to link full, on time payments with CAP customers that are current on their payment plan. Columbia asserts more of its customers are current than are represented by the full on time payments data. Columbia also points out there are many reasons why a CAP customer's service may not be terminated for nonpayment, such as when a dispute is filed with the Commission prior to termination, a customer identifies the service is critical to their health or during the annual winter moratorium from December 1st through March 31st. Columbia St. No. 13-R at 1-3.

Columbia argues OCA's data does not support its conclusion that Columbia's collection efforts are insufficient. Rather, the Company contends Columbia's percentage of CAP bills paid was the third highest of all Pennsylvania gas utilities, which demonstrates Columbia is doing an excellent job with its collection efforts, and the Company's CAP collections efforts are already effective at collecting customer payments on CAP bills. The percentage of CAP bills paid as reported in the Commission's 2018 Universal Service Programs & Collections Performance is more reflective of the Company's collection efforts than the OCA's flawed comparison. Therefore, OCA's recommendation that Columbia should submit to its Universal Service Advisory Council the question of how customer payments on CAP bills can be pursued through a reasonable collections process is not necessary and should be denied.

b) CAP Participation Rate

Columbia notes CAUSE-PA wants to require the Company to develop a plan to enroll 50% of its confirmed low-income customers in CAP by 2025. CAUSE-PA Statement No. 1 at 44. In addition, CAUSE-PA suggests Columbia expand CAP enrollment by adopting several strategies, including increasing outreach and working with stakeholders to identify solutions to achieve improvements in CAP enrollment, and recommends Columbia be required to submit annual reports to the Commission regarding its progress. CAUSE-PA M.B. at 23.

Columbia argues CAUSE-PA's proposals should be denied because (1) Columbia's CAP enrollment efforts are already successful; (2) it is improper to evaluate CAP enrollment efforts based on the percentage of low-income customers enrolled; and (3) CAUSE-PA's 50% enrollment goal is unrealistic. Columbia M.B. at 103-05.

Columbia contends it strives to promote CAP enrollment through everyday customer interaction and its existing CAP outreach is effective. Those outreach efforts include participation in community meetings and events, collaboration with CAP screening agencies and community-based agencies, web site updates, targeted mail solicitations, paid social media advertisements, advertisements on the Company website, television advertisements, advertisements on busses, billboards and radio advertisements. Columbia Statement No. 13-R at 5-8. In addition, whenever Columbia is in contact with a customer regarding payment difficulties, the Company contends it explores CAP as an option. Columbia St. No. 13-R at 5-6. Through these outreach efforts, Columbia's low-income customers (whether they are "confirmed" low-income) are informed of the CAP benefits available to them. Columbia contends the decision to apply for CAP ultimately is the customer's decision.

Columbia asserts it demonstrates its successful outreach by the fact it outperforms other gas utilities in Pennsylvania with respect to CAP participation. In 2017 and 2018, Columbia's CAP participation rate was the second highest according to the Commission's 2018 Universal Service Programs & Collections Performance Report,.[309] And, contrary to CAUSE-PA's position, Columbia is already achieving successful CAP enrollment levels.

Columbia disagrees with CAUSE-PA that CAP enrollment should be evaluated based on the percentage of customers enrolled in CAP compared to the number of confirmed low-income customers reported and asserts CAUSE-PA admitted that using the number of

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[309] Pennsylvania Public Utility Commission Report on 2018 Universal Service Programs & Collections Performance (published December 2019), available at: http://www.puc.state.pa.us/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2018.pdf.

confirmed low-income customers as a metric has its limitations. CAUSE-PA M.B. at 21.[310] Accordingly, Columbia recommends CAUSE-PA's proposal to require 50% CAP participation should be denied.

c) CAP Percent of Income Payment Plan

Columbia notes its CAP Percent of Income payment plan was approved by the Commission in January 2020.[311] The Company asserts that now CAUSE-PA seeks to modify the maximum energy burden for CAP customers on the Percent of Income payment plan that was approved by the Commission. Columbia points out OCA also disagrees with CAUSE-PA's recommendation. Columbia recommends the Commission find CAUSE-PA's recommendation is both untimely and unnecessary.

Columbia argues CAUSE-PA's recommendation to modify the energy burden for Percent of Income Payment Plan customers at this time is in customers' best interests. Columbia is in the process of implementing costly programming changes related to its recently approved plan (Columbia Statement No. 13-R, at 15-16) and changing the program guidelines before the program can even be fully implemented is not cost-effective.

Columbia also asserts a Commission decision to change a portion of Columbia's CAP based upon perceived energy burdens should be addressed in USECPs, not in a base rate proceeding. The energy burdens of customers on Percentage of Income Payment Plans should not be considered in isolation from other components of the utility's CAP and universal service offerings, but rather as part of a utility's entire universal service plan, including the need for the changes and associated costs. Columbia contends the need for changes and associated costs can only be fully assessed in the context of a USECP proceeding. The Company notes other forms

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[310] Customers have not increased CAP participation during the pandemic as there was not an imminent need for customers to address accruing arrearages due to the Commission's temporary moratorium on terminations. Columbia St. No. 13-R at 13.

[311] *See Columbia Gas of Pennsylvania, Inc.'s 2019-2021 Universal Service and Energy Conservation Plan*, Docket No. M-2018-2645401 (Order entered January 16, 2020) (*2020 USECP Order*).

of energy assistance are available to help customers afford their utility bills, without changing the current CAP payment requirements.

Columbia argues the addition of a LIHEAP grant would reduce the average energy burden for Percent of Income customers to 4.18%, which is in line with the energy burden in the Commission's *CAP Policy Statement*. CAUSE-PA contends LIHEAP should not be considered when determining affordability because it is too speculative but Columbia disagrees because its CAP customers are eligible for and do receive LIHEAP assistance. Columbia notes also that LIHEAP grants are not insignificant, with the average LIHEAP grant totaling $280.00, which grant would drop the average CAP payment from $56.00 per month to $32.00 per month. Columbia St. No. 13-R at 16-17. Columbia argues that, to ignore the availability of LIHEAP when setting energy burdens, would unnecessarily raise the cost of CAP that is borne by other Residential customers.

Columbia contends the flexibility available under CAP to offer different payment plans also demonstrates that a change to a single CAP component – the energy burden for customers under a Percent of Income Payment Plan – is not necessary. Only 4% of existing Percent of Income customers are removed from service for not paying their CAP payment. If a customer's energy burden is unmanageably high under the Percent of Income Plan, Columbia offers other CAP payment plans with lower energy burdens, and customers can switch to these more affordable payments plans. The next USECP proceeding is a more appropriate forum to consider the costs of CAUSE-PA's proposed changes, which would have a significant financial impact on Columbia's non-CAP ratepayers. The Company contends the cost to reduce the Percent of Income payment plan option to a 4%-6% energy burden would be more than $1 million per year in CAP credits (the "shortfall" amount). This cost is paid for by non-CAP customers (including non-CAP low-income customers) and would result in an approximate 5% annual increase to non-CAP customers. Columbia St. No. 13-R at 18. In a USECP proceeding, the Commission can weigh the lack of need against the high cost of implementing CAUSE-PA's proposal.

Columbia notes the Commission indicated utilities are not required to adopt the energy burdens provided in the CAP Policy Statement, contrary to CAUSE-PA's contention that the energy burdens for Percent of Income Payment Plan customers do not comply with the energy burdens set forth in the Commission's *CAP Policy Statement Order*. Columbia contends the Commission indicated the maximum energy burden percentages are recommendations only and are to be scrutinized in the utility's USCEP proceedings.[312] CAUSE-PA also fails to recognize that the Commission approved Columbia's energy burdens *after* its *CAP Policy Statement Order* was issued. If the Commission disapproved of Columbia's energy burdens, it could have rejected them in its *2020 USECP Order.*

Columbia notes CAUSE-PA raised an argument - related to a commitment from the settlement of Columbia's 2018 base rate case in *Pa. Pub. Util. Comm'n et al. v. Columbia Gas of Pennsylvania, Inc.* at Docket Nos. R-2018-2647577 et al. (Order entered December 6, 2018) (2018 Base Rate Settlement) - for the first time in this proceeding in its Main Brief.[313] Specifically, CAUSE-PA implied Columbia had not complied with Paragraph 57 of the 2018 Base Rate Settlement. Columbia disagrees and notes the Energy Burden Study did not direct an earlier filing than Columbia's next USECP filing and Columbia has yet to file a USECP following the Commission's Energy Burden Study. Columbia contends it fully complied with the commitments made in the 2018 Base Rate Settlement.

ii. Low-Income Customer Outreach

Columbia notes OCA recommended Columbia should adopt four outreach principles and four specific outreach mechanisms, but the Company argues its outreach strategy already embodies OCA's recommendations. Columbia notes each mechanism cited by OCA, and then described how it currently is implementing each of OCA's recommendations. Some of

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312 *Petition of Office of Consumer Advocate for Reconsideration/Clarification of the November 5, 2019 Final CAP Policy Statement Order at Docket No. M-2019-3012599,* Docket No. P-2020-3016885 (Order on Reconsideration/Clarification entered February 6, 2020) at 10-11 (emphasis added).

313 CAUSE-PA's argument is untimely. *See Application of PPL Electric Utilities Corp.*, 2009 Pa. PUC LEXIS 2323, 227 (2009) (a conjecture introduced for the first time in a brief with no basis in the record will be ignored).

those examples include: (1) offering CAP to all Level 1 customers in arrears;[314] (2) offering ten-day notices of termination provide income charts and a request customers contact the Company to discuss available options; (3) offering CAP when a disconnected customer calls requesting to be reconnected; and (4) offering CAP when contacting a customer through the cold weather survey. Columbia St. No. 13-R at 5-6.

Columbia also argues each OCA recommendation to adopt the following four principles are already embodied in Columbia's existing outreach efforts: (1) use the community as a means of identifying and engaging the hard to reach population; (2) focus on relationship building as opposed to relying on staff contacts; (3) go to the community rather than making the community come to you; and (4) rather than relying primarily on Company communications, rely on trusted messengers from within the community.

Columbia also disagrees with OCA's assessment of the Company's use of trusted community resources to reach otherwise hard-to-reach low-income customer populations as overly relying on "Company-driven outreach strategies." OCA M.B. at 130. The Company argues that, while its outreach efforts include many efforts driven directly by the Company (e.g., Company website updates, targeted mail solicitations and outbound calls), Columbia also heavily engages trusted resources in the communities of its low-income customers as part of its outreach efforts. Specifically, Columbia partners with community resources, including housing authorities, veterans' groups, career training centers, medical clinics, the Department of Human Services, and other local community-based agencies. Columbia accepts CAP applications in the community at worship sites, unemployment offices, banks, stores, community action agencies, senior centers, Salvation Army offices, and even in customer homes when necessary. Columbia's outreach efforts include community meetings, fifteen to twenty legislative and/or senior events and three Be Utility Wise events each year to promote programs to individuals, community advocates and caseworkers. Columbia Statement No. 13-R at 5-8.

Columbia recognizes the importance of promoting its low-income programs through trusted resources in the community and disagrees with OCA's assertions the Company's

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[314] Level 1 refers to all customers at or below 150% of the Federal Income Poverty Guidelines.

efforts are deficient in this regard. Columbia argues OCA ignored the many ways in which Columbia engages the community as part of its outreach activities and contends OCA's recommendations regarding Columbia's outreach efforts are unnecessary because they are already in practice.

iii. Health and Safety Pilot

Columbia contends CAUSE-PA's proposal to increase funding for the Health and Safety Pilot is not prudent at this time. Columbia explains the program was designed as a pilot program to test whether the program is beneficial, and the pilot is in its first year. Columbia argues funding for the pilot should not be changed until the effectiveness of the program can be evaluated. Columbia Statement No. 13-R at 19. While CAUSE-PA points out that more homes could be improved if funding is increased, the Company asserts there are too many unknowns at this time to increase funding. CAUSE-PA's recommendation to increase funding without any evaluation of the program's costs and benefits should be rejected.

iv. LIURP

Columbia asserts it understands and does not dispute the importance of LIURP but argues against CAAP's suggestion to increase LIURP budget by $420,000 annually because Columbia submits LIURP is *over*-funded. Columbia points as proof of its statement to the carry-over funding from year to year. Columbia Statement No. 13-R at 21-22. Columbia notes CAAP does not dispute that county weatherization providers throughout Columbia's service territory often find it difficult to spend their annual allotted weatherization funds, and while CAAP claims there are additional LIURP-eligible customers, CAAP does not provide any analysis suggesting that these additional customers would enroll in LIURP. CAAP M.B. at 8. Columbia contends its LIURP budget is already the second highest of all utilities behind Philadelphia Gas Works and the highest in western Pennsylvania.[315] Accordingly, Columbia argues CAAP's proposal to

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[315] Pennsylvania Public Utility Commission Report on 2018 Universal Service Programs & Collections Performance (published December 2019), available at: http://www.puc.state.pa.us/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2018.pdf.

increase LIURP funding should be denied as there is no evidence that additional funding is needed.

v. Hardship Fund

Columbia notes CAAP recommended an increase from $650,000 to $800,000 annually to the Hardship Fund, but the Company contends CAAP fails to provide any support for its funding proposal. Columbia discusses all of the resources used to provide Hardship Fund funding, including shareholder contributions, customer and Company sponsored fundraising, and pipeline penalty credits and refund proceeds, and explains it currently has a surplus in its Hardship Fund balance of more than $700,000. Columbia Statement No. 13-R at 22-23. Columbia points out CAAP does not dispute that existing funding levels are more than sufficient, and Columbia suggests CAAP's proposal should be rejected. The Company argues the Hardship Fund is already adequately funded and capable of serving the customers who qualify for Hardship Fund grants under the existing guidelines.

Columbia notes it requested the Commission temporarily amend its USECP to increase the number of customers who can qualify for assistance through the Hardship Fund and attached a copy of its request to its Reply Brief as "Appendix B." Currently, the Hardship Fund is available to customers with incomes at or below 200% of the Federal Poverty Income Guidelines. Columbia seeks to temporarily expand eligibility for the Hardship Fund to customers with incomes that are at or below 300% of the Federal Poverty Income Guidelines. Columbia seeks to expand the Hardship Fund to assist customers who have been financially impacted by the COVID-19 pandemic, but do not currently qualify for other forms of assistance. To accommodate the increased number of customers eligible for the Hardship Program, Columbia secured $400,000 in additional funding from the NiSource Foundation, which it believes will sufficiently cover the cost of the additional customers. Any unused funds will remain in the Hardship Fund at the conclusion of the program year. Columbia has already taken the necessary steps to ensure that customers who need Hardship Fund assistance are able to receive it.

b. Pipeline Replacement Issues

i. DIMP

The Company does not oppose BIE's proposal to amend its DIMP to explain the process of using quantitative risk scores and SME input to derive a quantitative risk evaluation that is used to determine the High-Medium-Low risk level for each asset-threat combination published in the DIMP. Columbia points out its quantitative data is calculated numerically from leakage rates, damage data and other sources. Columbia St. No. 7-R at 3-4. The SMEs further review the asset-threat combinations and develop probability and consequence scores using a numerical risk matrix. Columbia St. No. 7-R at 6, Columbia Ex. MJD-2R. These scores ultimately establish the published risk level. However, Columbia does not propose to change the DIMP to show risk scores, but instead will continue to show the High-Medium-Low characterizations of risk to impress upon all SMEs the importance of treating all High risks as urgent items.

The Company notes BIE and it continue to dispute whether Columbia should update Section 7.1.2.2 of its DIMP to reflect the inclusion of all historical data in the evaluation of risks. Columbia notes BIE wants the Company to include "all available historical data on leakage history." However, Columbia asserts the pre-2016 leakage data is not reliable for trending purposes, as a result of changes to data collection and quality assurance processes. Columbia argues DIMP evaluations should not be distorted by data uncertainty, and Columbia opposes the recommendation to use "all available historical data" including pre-2016 leakage history.

ii. Pipeline Replacement

BIE continues to recommend the Commission direct the Company to increase its pipeline replacement efforts. Columbia opposes this recommendation herein because the Commission has opened a mid-plan review of Columbia's Commission-approved LTIIP. The Company contends a generic order to increase pipeline replacement efforts herein should not be

issued to modify the specific pipeline replacement goals established through the LTIIP. Columbia points out BIE failed to provide any explanation through its testimony and brief *why* a generic declaration in a base rate proceeding is better than the approval of specific plans in an LTIIP proceeding. Columbia notes nothing prevents BIE from presenting objections, concerns and information in the open mid-term LTIIP review process, and make recommendations to change the LTIIP.[316] Lastly, Columbia asserts its currently approved LTIIP already provides for increasing footage of main replacement throughout its term.[317] Whether any further change to that accelerated pace should be made is properly considered in the context of the LTIIP review.

iii. Pipeline Replacement Costs

Columbia does not oppose BIE's revised recommendation that Columbia meet annually with BIE's Pipeline Safety Division for a status update on cost control efforts.[318]

iv. Risk Reduction

a) Root Cause Analysis

Columbia opposes as premature BIE's recommendation Columbia undertake a formal root cause analysis to determine why total leaks found have increased by 8.5% from 2017-2019, in the context of ongoing replacement of at-risk pipe. Columbia asserts leak detection and repair are high priorities, and Columbia has reduced open Type-2 leaks on its

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[316] *See Periodic Review of Peoples TWP, LLC's Long-Term Infrastructure Improvement Plan*, Docket No. M-2015-2505105, Order entered July 21, 2016 (directing Peoples TWP, LLC. to file a new LTIIP to incorporate changes proposed by BIE).

[317] *Petition of Columbia Gas of Pennsylvania, Inc. for Approval of a Major Modification to its Existing Long-Term Infrastructure Improvement Plan and for Approval of its Second Long-Term Infrastructure Improvement Plan*, Docket No. P-2017-2602917 (Order entered September 21, 2017) at 14.

[318] BIE notes two recent main replacement projects incurred substantial restoration costs. Columbia explained the reason for these high costs: Both projects were in an urban area and required more restoration than a typical project. The South Side, Phase I project consisted of laying pipeline under pavement along Sarah Street, 25th Street and Jane Street because the buildings are close to the sidewalks in this area of Pittsburgh. The City of Pittsburgh required 3.5 inch "mill and overlay" of half the width of each street and most of the intersections. Similarly for the Glenwood project, the Borough of Ambridge required "mill and overlay" as well as sidewalk restoration. Columbia St. No. 14-R at 9-10.

system by 91% since 2007, so clearly leak repair and pipeline replacements have contributed to this successful effort. Columbia is not opposed to undertaking a formal root cause analysis of issues in appropriate circumstances but argues such an analysis requires Columbia to reassign employees from other programs to undertake the analysis. Columbia believes a decision to undertake a formal root cause analysis needs to consider more than just an identification of a recent increase in leaks found.

Columbia argues a formal root cause analysis is premature because: (1) leaks found have decreased 15.6% from 2015-2019; (2) leaks do not reduce in lock step with pipe replacement, as remaining pipe ages and becomes more susceptible to leaking; (3) Columbia increased pipes surveyed annually by 13.8% from 2017 through 2019 which can contribute to discovery of the 8.5% higher leaks found during that period of time; and (4) additional data can determine if this is a potential problem or a short-term phenomenon.

b) Field Assembled Risers

Columbia agrees with BIE's recommendations to identify and develop a plan to replace field assembled risers, however, Columbia notes OCA's opposition to the recovery of the additional spending needed to accelerate replacement of field assembled risers.

c) Maps and Records

Columbia and BIE agree on the need to continue and complete updating of maps and records as quickly as possible. Columbia asserts it will keep BIE apprised of its progress. However, as in the case for field assembled risers, Columbia notes OCA opposes recovery of the additional $491,000 in FPFTY spending to accelerate this work.

2. BIE's Position

a. Low-Income Customer Issues

BIE did not address low-income customer issues.

b. Pipeline Replacement Issues

i. Distribution Integrity Management Program

BIE notes Columbia, as a NGDC, is mandated to adhere to its Distribution Integrity Management Program (DIMP) under the Code of Federal Regulations (CFR)[319] and it is the Company's DIMP which is used to evaluate risks to its system.[320]

a) DIMP Risk Scores

According to the Company, Columbia uses both its DIMP and "Optimain" software to assess system risks, and its system risks are ranked as high, medium, or low depending on severity. The Company is implementing its Safety Management System (SMS) to better identify and mitigate risks to its system.[321] During BIE's review of the Company's DIMP, it was unclear whether Columbia's use of two different mechanisms (DIMP and its newly implemented SMS) to assess risks were using the same risk ranking classifications. BIE recommended initially that the Company develop a process and procedure to normalize the two different risk ranking systems it uses so the effectiveness of the DIMP plan can be evaluated.[322] BIE notes Columbia's expert disputed that claim and asserted Columbia does not use two different risk scores for DIMP risk ranking but rather uses two inputs to generate one DIMP risk

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[319] 49 Part 192.1001-192.1015, Subpart P.

[320] I&E Statement No. 4 at 3.

[321] Columbia Statement No. 7 at 27.

[322] I&E Statement No. 5 at 6-7.

score. Columbia asserted to BIE that the two inputs comprise quantitative data on one hand and qualitative data from the Company's SMEs on the other hand. Furthermore, Columbia insisted it uses the performance measures associated with the highest risks in its system to evaluate the effectiveness of its DIMP Plan.[323]

BIE agreed that its expert accepted, in surrebuttal, the Company's explanation of using two inputs to generate one DIMP risk score, however, BIE's expert reiterated that Columbia's current DIMP is unclear as to the explanation that was provided by the Company's expert. Therefore, BIE recommends Columbia amend its DIMP to explain its method of using two inputs to generate one DIMP risk score and present proof of the update to BIE Pipeline Safety at the conclusion of this proceeding.[324]

b) Inclusion of All Historical Data in Risk Calculation

BIE initially recommended Columbia use all available historical data prior to 2016 to better evaluate trends and changes in risks to its system.[325] BIE notes Columbia responded by stating it utilizes post 2016 historical leakage data for trending analysis[326] but is unable to perform a fair comparison of risk rankings for the current year's leakage data against leakage data prior to 2016 because the Company made several process changes in 2016 regarding the collection of leakage data and the leakage data quality assurance/quality control processes.

BIE notes it clarified for Columbia that the changes that occurred in 2016 cover leakage data only, however, in addition to leakage, high risks to Columbia's system include third party damages, external corrosion, over pressure, cast iron, cross bores and field assembled risers. BIE notes Columbia claimed it has already updated this Section of its DIMP by

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323 Columbia Statement No. 7-R at 9-10.

324 I&E Statement No. 5-SR at 5.

325 I&E Statement No. 5 at 7.

326 Columbia Statement No. 7-R at 10-11.

expanding the use of incident data and that asset-threat combinations related to incidents over the previous five years now have a higher consequence of failure score.[327] However, BIE argues those updates are acceptable only if the Company intends to include all available historical data on leakage history, third party damages, external corrosion, over pressure, cast iron, cross bores and field assembled risers.[328]

As a consequence, BIE recommends Columbia update Section 7.1.2.2 of its DIMP to reflect the inclusion of all historical data including leakage history, third party damages, external corrosion, over pressure, cast iron, cross bores and field assembled risers in the evaluation of its risks and present the revision to BIE Pipeline Safety at the conclusion of this proceeding.

ii. Pipeline Replacement

BIE recommends Columbia increase its pipe replacement so that the 2029 priority pipe replacement goal - as stated in the Company's most recent LTIIP - will be met.[329] Columbia filed its LTIIP with the Commission in 2017[330] and averred in its filing that it experienced an increasing number of leaks in areas with a high concentration of aging pipe. Therein, Columbia stated its corrosion leaks represented 65% of all leakage that occurs on main lines in its system [331] but that removal of bare steel and cast-iron pipe will reduce the Company's

[327] Columbia Statement No. 7-R at 11.

[328] I&E Statement No. 5-SR at 6.

[329] I&E Statement No. 4-SR at 10.

[330] *Petition of Columbia Gas of Pa., Inc. for Approval of a Major Modification to its Existing Long-Term Infrastructure Improvement Plan and Approval of its Second Long-Term Infrastructure Improvement Plan* at Docket No. P-2017-2602917.

[331] *Petition of Columbia Gas of Pa., Inc. for Approval of a Major Modification to its Existing Long-Term Infrastructure Improvement Plan and Approval of its Second Long-Term Infrastructure Improvement Plan* at Docket No. P-2017-2602917 at 6.

leakage based on corrosion.[332] In its LTIIP, Columbia claims it will replace all cast iron and bare steel pipe in its system by 2029.[333]

BIE notes its expert expressed concern the Company will not meet the 2029 target stated in the Company's LTIIP.[334] On January 1, 2017, Columbia had 1,350 miles of unprotected bare steel mains, 24.5 miles of cast iron mains, and 83 miles of wrought iron mains in its distribution system.[335] BIE argues that, in order for the Company to hit its target date of replacement, the Company must replace or retire on average over 100 miles of pipe per year from the date this plan was filed in 2017. However, BIE notes the Company's witness testified Columbia replaced only 91 miles of priority pipes in 2016, 96 miles of priority pipes in 2017, 57 miles of priority pipes in 2018 and 98 miles of priority pipes in 2019.[336] BIE contends, although the Company may be ahead of its projected five-year goal in the LTIIP, at its current pace, Columbia will not meet its planned 2029 target date for replacement of all bare steel, cast-iron, and wrought iron mains. BIE estimates the Company would need to replace at least 112 miles of pipe each year from 2017 to 2029 to meet its planned target date of 2029, even though the mileage of at-risk pipe is decreasing. BIE also notes the Company will need to file a new LTIIP plan before the end of 2022, when the current LTIIP expires. Although the Company may increase the amount of pipeline replacement in the next LTIIP, it is not guaranteed that the Company will meet its 2029 replacement target date. BIE estimates that, because less than the

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[332] Columbia Gas Second LTIIP, Docket No. P-2017-2602917 at 10-11 (Order Entered September 21, 2017).

[333] Columbia Gas Second LTIIP, Docket No. P-2017-2602917 at 5 (Order Entered September 21, 2017).

[334] I&E Statement No. 4 at 12.

[335] *Petition of Columbia Gas of Pa., Inc. for Approval of a Major Modification to its Existing Long-Term Infrastructure Improvement Plan and Approval of its Second Long-Term Infrastructure Improvement Plan* at Docket No. P-2017-2602917 at 3.

[336] Columbia Statement No. 1 at 13, figure 3.

112[337] miles were replaced in 2017, 2018 and 2019, the Company would now need to retire approximately 118[338] miles per year for years 2020 through 2029.[339]

Columbia responded to BIE's recommendation by indicating that Columbia's ability to meet its projections cannot be measured by a straight-line, average approach due to, among other things, the uniqueness of each project.[340] Further, Columbia asserted, if the 2029 completion target date was in jeopardy, Columbia would file a modification to its LTIIP and further claimed that these issues are better addressed in the LTIIP proceeding rather than this base rate case.[341]

BIE continues to assert Columbia has to replace on average 118 miles per year to meet the Company's goal by 2029 but, historically, has only replaced over 100 miles of pipe two times between the years 2007 to 2019.[342] Columbia has not consistently replaced over 100 miles of pipe over the past thirteen years. Based on this information, BIE believes it is necessary to raise this concern and recommend the Company increase its pipeline replacement to meet its LTIIP goal and to reduce overall risk in its system.[343]

BIE disagrees with the Company's argument that these issues are better addressed in an LTIIP proceeding. BIE asserts it represents the public interest in rate proceedings and BIE Pipeline Safety's goal through intervention in rate cases is to bring to light safety impacts with

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337 To determine that fewer than 112 miles were replaced by Columbia from 2017-2019, Mr. Niambele used the Company's stated number of miles of pipeline needing replacement as of 2017 being 1,457 miles and divided it by the Company's total LTIIP 13 years (2017-2029).

338 To determine that the Company would need to replace at least 118 miles of pipeline to meet its LTIIP goal, Mr. Niambele used the Company's actual replacements found in the 2019 DOT Annual Report (1,181 miles) and divided it by the 10 years remaining on the Company's current LTIIP (2019-2029).

339 I&E Statement No. 4 at 13.

340 Columbia Statement No. 14-R at 3-4.

341 Columbia Statement No. 1-R at 13-17.

342 Columbia Statement No. 1 at 13, figure 3.

343 I&E Statement No. 4-SR at 4.

the interconnection and related effects between risk calculations, assets replacement and mitigation, costs, LTIIPs and risk factor indicators, such as incidents and leaks. Increase in risk leads to further examination of all available information. This information can include a company's DIMP, annual reports filed with PHMSA, the company's LTIIP, and information gained during the course of a base rate proceeding. All information is analyzed, and appropriate recommendations can be made in a base rate proceeding.[344]

Accordingly, BIE contends it is appropriately concerned Columbia may not meet its stated 2029 replacement goal and believes it is important to alert Columbia to these concerns in this proceeding as part of BIE's charge to represent the public interest and to make appropriate recommendations that would reduce overall system risk.[345] Accordingly, BIE recommends the Company increase its pipeline replacement efforts to meet the 2029 LTIIP goal.

iii. Pipeline Replacement Costs

BIE recommends Columbia draft a cost reduction plan to be submitted to BIE Pipeline Safety Division within 60 days of the final Order in this proceeding. That plan should outline Columbia's proposed cost containment measures and those reduction measures should be reflected in an update to the Company's LTIIP. Columbia must make an effort to negotiate better contracts and coordinate projects with other utility companies and local governments to keep costs down and to itemize expenses on pipeline replacement projects.[346]

BIE's expert reviewed the Company's replacement costs and found Columbia's capital project costs have increased each year from 2015 through 2017 and in 2019.[347] Specifically, the increasing costs include paving and restoration costs, construction overhead, and other costs. According to the Company, the decreased costs for 2018 were due to the

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344 I&E Statement No. 4-SR at 5.

345 I&E Statement No. 4-SR at 7-8.

346 I&E Statement No. 4 at 18-19.

347 I&E Statement No. 4 at 16 (*citing* Columbia Statement No. 14 at 4).

incident in Merrimack Valley, Massachusetts, when the Company replaced less pipeline mileage in Pennsylvania in 2018 because Columbia sent resources to Massachusetts for the mutual aid response.[348]

BIE notes Columbia's expert outlined the increasing pipeline replacement costs from 2008 to 2019 [349] when the average cost for replaced priority pipes went from $81.25 per foot in 2008 to $235.00 per foot in 2019.[350] During that period, Columbia replaced or retired approximately 1,010 miles of priority pipe for an average of 84 miles per year. [351] BIE's concern is that Columbia's increased pipeline replacement costs suggest municipal restoration requirements continue to drive up the overall replacement cost.[352] BIE provided two examples of recent replacement projects for Columbia.

BIE points to Phase 1 of Project 1317068 located in the South Side of the City of Pittsburgh with a total cost of $1,634,598.32. The paving and restoration cost of the project was $1,161,369.39, which equates to 71% of the total project.[353] BIE points to another project, identified as Project 1531242, or the Glenwood Replacement Project, located in Glenwood, PA, with a total cost of $260,233.31. The project's paving and restoration cost was $202,200.35, which equates to 78%, of the total budget.[354] BIE contends these specific projects illustrate its concern of high restoration costs relative to the total project costs.[355]

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348 Columbia Statement No. 1 at 13.

349 Columbia Statement No. 14 at 4.

350 Columbia Statement No. 14 at 4.

351 Columbia Statement No. 1 at 13, figure 3.

352 I&E Statement No. 4 at 12.

353 I&E Exhibit No. 4, Schedule No. 7 at 4.

354 I&E Exhibit No. 4, Schedule No. 7 at 10.

355 I&E Statement No. 4 at 17-18.

BIE notes the Company is implementing BIE's recommendations as part of the Company's existing processes to plan and execute pipeline replacement projects and the Company is already working to reduce restoration costs by carrying out BIE's recommendations. BIE states it recognizes the Company is making efforts to reduce replacement costs but remains concerned that those costs are increasing. Accordingly, BIE recommends, until the conclusion of the Company's next base rate proceeding, Columbia and BIE's Pipeline Safety Division meet annually for a status update of those efforts when BIE Pipeline Safety would like to discuss replacement cost reduction strategies and best practices the Company is using to reduce all costs.[356] Any cost reductions the Company realizes can be used to replace more pipe and reduce system risk.[357]

iv. Risk Reduction

a) Root Cause Analysis

BIE agrees that Columbia tracks the progress of its risk reduction program by gauging several key risk factors including open grade 2 leaks and the inventory of bare steel and cast-iron pipes in its system.[358] BIE notes Columbia reduced its open grade 2 leaks by 64.14% from 2015 to 2019, when the Company had 937 open grade 2 leaks in 2015 and 336 open grade 2 leaks in 2019.[359] However, BIE points out that, from 2017 to 2019, other risk indicators have risen thus outweighing Columbia's risk reduction efforts. These risk indicators include the number of newly found leaks, excavation damages per thousand tickets, poor record related damages, non-reportable incidents due to poor records, and failures of field-assembled risers on Columbia-owned service lines.[360] As a result, BIE's witness provided a breakdown for

356 I&E Statement No. 4-SR at 10.

357 I&E Statement No. 4-SR at 10.

358 I&E Exhibit No. 5, Schedule No. 9 at 1.

359 I&E Statement No. 5 at 6.

360 I&E Statement No. 5 at 6.

excavation damages[361], facility damages (including mapping errors,[362] poor records,[363] unmarked facilities,[364] Columbia fault,[365] and third-party at fault[366], non-reportable incidents[367] and failed field-assembled risers.[368]

BIE recommends Columbia perform a root cause analysis[369] due to the increase in other risk indicators and determine why the number of leaks found does not correlate with the amount of pipeline replacement for the past four years. BIE also recommends Columbia should present the results of the said analysis to BIE Pipeline Safety, which should include any corrective actions the Company takes, no later than September 30, 2021. Additionally, BIE recommends the Company continue its leakage reduction program.[370]

BIE notes Columbia continued to disagree with BIE in rebuttal testimony. On rebuttal, the Company's witness admitted the Company experienced a slight increase over the three year period of 2017 to 2019, which can be attributed to two key factors: (1) aggressive replacement of aging infrastructure through its accelerated infrastructure replacement program

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361 I&E Statement No. 5 at 7.

362 I&E Statement No. 5 at 8.

363 I&E Statement No. 5 at 9.

364 I&E Statement No. 5 at 9.

365 I&E Statement No. 5 at 10.

366 I&E Statement No. 5 at 10-11.

367 I&E Statement No. 5 at 11.

368 I&E Statement No. 5 at 11-12.

369 I&E witness Apetoh explains which type of root cause analysis is requested of the Company in his surrebuttal testimony. He explains that the objective of a root cause analysis is to determine the most fundamental reason for an incident or condition, which if removed will prevent recurrence or minimize the risk of the incident or condition. Additionally, there are several root cause analysis techniques. A systematic root cause analysis, which is the one referred to in this case, is an analytical technique or method used to perform two primary functions. These functions include organizing data into patterns to help determine root causes and generating questions for inquiry. There are six key attributes he looks for in a root cause analysis including: (1) Thoroughness; (2) Fairness; (3) Efficiency; (4) People, plant, and procedures; (5) Safety precedence sequence; and (6) Overt management support. I&E Statement No. 5-SR at 8.

370 I&E Statement No. 5 at 12-13.

where the impact of these efforts is expected to be gradual as the remaining pipeline to be replaced continues to degrade at an accelerated pace, and (2) an increase in surveyed pipeline.[371] Columbia contended, however, that BIE's analysis overstates the percent change of leaks associated with priority pipes[372] because the data BIE based its analysis on are not limited to priority pipes but also include probable leaks source as well as facility damage leaks. Additionally, Columbia asserted BIE's analysis should have included pipe material.[373] The Company insisted, as a prudent operator, a root cause analysis is essential to understanding and evaluating pipelines system risks and it performs its own analysis through its DIMP under 49 CFR Part 192.1001-192.1015, Subpart P of the Code of Federal Regulations and through operations work planning processes.[374] Accordingly, Columbia argued it does not believe a formal root cause analysis is necessary at this time as it already evaluates leakage data in its current DIMP and operations work planning processes.[375]

BIE argues that, in general, utilities conduct studies or analyses to determine which segments of their systems they should target first during a replacement project. Based on the result of those studies, riskiest pipes or segments are replaced first. Here, Columbia uses a computer software program, Optimain, to determine its riskiest pipes.[376] Despite the Company's explanation, BIE argues the upward trend in leaks from 2017 to 2019 is concerning to BIE Pipeline Safety. To determine whether the Company is targeting the right segments during replacement projects, the Company would need to conduct a root cause analysis because it will provide a specific cause as to the increase in leaks in Columbia's system using the six key attributes. BIE acknowledges Columbia performs its own risk assessment in accordance with

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371 Columbia Statement No. 7-R at 11-12.

372 Columbia Statement No. 7-R at 13.

373 Columbia Statement No. 7-R at 13.

374 Columbia Statement No. 7-R at 13.

375 Columbia Statement No. 7-R at 13-14.

376 Columbia Statement No. 7-R at 5.

DIMP, however, a root cause analysis is generally accepted in the industry and provides a great amount of detail necessary to pinpoint the exact cause or causes of leakage increases.[377]

Finally, BIE notes that both BIE Pipeline Safety and the Company agree that overall leaks found have increased on Columbia's system from 2017 to 2019. Additionally, Columbia and BIE Pipeline Safety concur on the importance of conducting a root cause analysis. Accordingly, BIE continues to recommend the Company perform a root cause analysis and submit the results to I&E Pipeline Safety no later than September 30, 2021.

b) Field-Assembled Risers

BIE notes BIE Pipeline Safety defines a riser as a section of pipe that connects fuel lines and meter sets. Field-assembled risers are risers that are assembled in the field by Company employees as opposed to factory-assembled risers. Riser failures can lead to leaks resulting in explosions, deaths, or property damages.[378] BIE's witness noted the following data, after analyzing information provided by Columbia in response to discovery, concerning failed field assembled risers:[379] from 2015 through 2019, Columbia's failed field-assembled risers increased 100.00% from 24 in 2015 to 48 in 2019[380]and, from 2017 to 2019, the Company's failed field-assembled risers increased 4.35% from 46 in 2017 to 48 in 2019.[381]

Due to the increase in failed field-assembled risers, BIE recommended the Company complete updating its records, which would allow Columbia to identify the locations of all field-assembled risers including those on customer-owned service lines. Additionally, BIE recommended Columbia complete the inspection of all field-assembled risers in the Company's

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377 I&E Statement No. 5-SR at 9-10.

378 I&E Statement No. 5 at 11.

379 I&E Exhibit No. 5, Schedule No. 25 at 1-2.

380 I&E Exhibit No. 5, Schedule No. 26.

381 I&E Exhibit No. 5, Schedule No. 27.

system as soon as possible and develop a plan to replace all of the field-assembled risers in its system, including those on customer-owned service lines.

BIE notes Columbia responded to BIE's recommendations that the Company was taking proactive actions to address the concerns and recommendations made by BIE's witness.[382]

c) Maps and Records

In order to reduce risks involving excavation damages mentioned above, which include mapping errors, poor records, unmarked facilities, BIE initially recommended the Company finish updating its maps and records by the end of 2021 if the Commission approves its request for an additional O&M cost of $491,000.[383] Columbia responded and indicated Columbia could not guarantee completion of its maps and records by the end of 2021. However, the Company agreed not only to provide documentation to BIE Pipeline Safety as soon as it is available but to keep BIE apprised of its progress.[384]

BIE notes it accepts Columbia's proposal to keep BIE Pipeline Safety apprised of any progress with updates to maps and records.[385]

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[382] Columbia Statement No. 7-R, page 19.

[383] I&E Statement No. 5 at 13-14.

[384] Columbia Statement No. 7-R at 15.

[385] I&E Statement No. 5-SR at 12.

3. OCA's Position

a. Low-Income Customer Issues

i. Customer Assistance Program

a) Introduction

OCA recommends improvements to Columbia's CAP collections and CAP outreach to address increasing arrearages for Confirmed Low-Income customers. OCA St. 5 at 6- 28. OCA asserts the Company's CAP collections policies are not adequate and do not appear to be consistent with the Commission's *Final CAP Policy Statement Order*. OCA St. 5 at 11.[386] OCA recommends the Commission require the Company address the issue by submitting to its Universal Service Advisory Committee, within six months of a final order in this proceeding, the question of how customer payments on CAP bills can be pursued through a reasonable collections process. OCA St. 5 at 11. In addition, OCA asserts the Company's CAP outreach does not appear to reach a significant segment of the Confirmed Low-Income population that could benefit from CAP - those customers at or below 50% of the Federal Poverty Level and OCA recommends additional steps the Company should take to improve its community-based, grass-roots outreach in order to better reach low-income customers in its communities. OCA St. 5 at 28. OCA acknowledges it agrees with the recommendation of Columbia witness Davis that Columbia's energy burdens should not be changed as a part of this base rate proceeding. CPA St. 13-R at 15-18; OCA St. 5-S at 19-21.

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[386] *See 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa.Code §§ 69.261-69.267*, Docket No. M-2010-3012599, Order at 72-73 (Order entered Nov. 5, 2019) (*Final CAP Policy Statement Order*).

ii. CAP Collections

a) Introduction

OCA explains the Commission's recent amendments to its CAP Policy Statement addressed how utilities should collect arrears for non-payment CAP defaults. The Commission's *Final CAP Policy Statement Order* provided:

> Relative to non-payment CAP defaults, we find that it is appropriate to recommend that utilities initiate collection activity after no more than two CAP payments in arrears. While Section 1405(c) prohibits the Commission from making a payment agreement for a CAP customer, it does not prohibit the Commission from ensuring that the statutory "policy" at Section 1402(3) of "increasing timely collections" is appropriately applied to CAP accounts. 66 Pa.C.S.A. § 1402(3). An appropriate default provision is necessary to ensure that a utility is operating its CAP in a cost-effective manner. 66 Pa.C.S.A. § 2203(8).
>
> The rationale for timely collection for CAP participants is that a low-income CAP participant is more likely to be able to pay a catch-up amount if the utility pursues collections in a prompt manner. For a utility to allow more than two CAP payments in arrears without taking any collection action is counterproductive and inconsistent with the General Assembly's declaration of policy that utilities are to increase timely collections. Section 1402(3). When a utility fails to take timely collection action, it increases the likelihood that a low-income customer will accrue a balance it cannot pay back or satisfy through available energy assistance grants or donations.
>
> The consequence for nonpayment of CAP bills should be loss of service, not loss of CAP. Loss of CAP merely increases debt. It is illogical, unproductive, and unreasonable for a utility to allow a customer to incur an insurmountable obstacle to restoration of service by failing to pursue timely collection on a CAP account. An appropriate default provision is necessary to ensure that a utility is operating its CAP in a cost-effective manner. Therefore, we recommend that a utility should initiate collection procedures after a customer has a maximum of two CAP payments in arrears.

Final CAP Policy Statement and Order at 72-73; 52 Pa.Code § 69.265(11).

OCA submits the Company must undertake timely collections for CAP customers so that low-income customers will be more likely to be able to get caught up on any missed payments or find available resources to assist with paying those missed payments. OCA asserts it examined the Company's collections policy and the results of the Company's collections activity, and OCA contends there was a significant gap between the number of CAP bills tendered and the number of CAP full payments received. OCA became concerned that the data for Columbia might not be consistent with the Commission's Final Order directive. OCA notes the Company's data is set forth in the Schedule RDC-1, and shows that, while CGPA tendered on average between 22,000 and 23,000 CAP bills each month for the years 2018 through 2019, it received between roughly 12,000 and 13,000 full payments. OCA points out that Schedule RDC-1 shows:

- In 2017, CGPA issued an average of 22,005 CAP bills per month and received an average of 11,694 full CAP payments (46.4%).
- In 2018, CGPA issued an average of 23,420 CAP bills per month and received an average of 11,817 full CAP payments (50.5%).
- In 2019, CGPA issued an average of 22,899 CAP bills per month and received an average of 13,043 full CAP payments (57.0%).

OCA St. 5 at 7, Sch. RDC-1.

OCA contends that, in dollar terms, Columbia received CAP payments equal to only 71.8% of the CAP bills it issued in 2017 (payments of $9,050,991 against bills of $12,598,585); Columbia received payments equal to only 73.4% of its CAP bills in 2018 ($10,262,398 in CAP payments against $13,972,031 of CAP bills); and Columbia received CAP payments equal to 77.0% of CAP bills in 2019 ($11,066,661 in CAP payments against $14,229,197 in CAP bills). OCA contends that in each year, Columbia fell between 25% and 30% in fully collecting its CAP bills. OCA St. 5 at 7, Sch. RDC-1.

As a result of these findings, OCA concluded Columbia's collections policy may not be consistent with the Commission's *Final CAP Policy Statement Order*. Accordingly, OCA submits that Columbia should work to improve its collections policy.

OCA notes the *Final CAP Policy Statement Order* provides, "the rationale for timely collection for CAP participants is that a low-income CAP participant is more likely to be able to pay a catch-up amount if the utility pursues collections in a prompt manner." *Final CAP Policy Statement Order* at 72. OCA argues that, while much attention is often devoted to ensuring that Columbia enrolls eligible customers in CAP, insufficient attention appears to be devoted to ensuring that CAP customers are paying their bills consistently. OCA recommends the Company should submit to its universal service advisory committee within six months of a final order the question of how customer payments on CAP bills can be pursued through a reasonable collections process. OCA asserts the stakeholders with the Universal Services Advisory Committee could be a valuable resource to assist the Company with potential changes to the Company's collections policies

OCA asserts the resolution of this question is not only for the benefit of CAP participants (in helping them to retain service), but also for the benefit of CAP non-participants by reducing the cost of unpaid bills. In addition, OCA recommends Columbia should target structural poverty and seek to enroll customers who are facing long-term poverty status. OCA St. 5 at 11.

b) Columbia did Not adequately address the collections concerns raised by OCA Witness Colton's Testimony

OCA recommends the Company review, with its Universal Services Advisory Committee, potential ways to improve the Company's collections policies because of the significant gap between the number of bills tendered and the number of payments received. OCA notes Columbia argued there are no collections issues. OCA argues Columbia has not responded adequately to the significant gap in the number of bills tendered and the number of bills received as determined by OCA upon review of the Company's data. Specifically, OCA notes the problem with the Company's CAP compliance rate is not about the number of CAP bills paid, but rather about the collection efforts the Company takes on the CAP bills <u>not</u> paid. OCA St. 5-S at 14.

OCA submits its witness created Table 2S to compare side by side the number of accounts for which a LIHEAP credit was applied to the bill compared to the number of CAP accounts not receiving a LIHEAP grant with bill credit. OCA St. 5 at 13, Table 2S. OCA's witness contested the Company witness' explanation - that "the LIHEAP grant credits are not included in the full, on time payment data referenced by" OCA's witness (CGPA St. 13-R at 2) - as inconsistent with the data provided for two reasons. First, OCA's witness contends there is no sense for Columbia to report data on having issued a bill showing a bill credit on it as the balance due, and then to report the customer having received that bill as not having made a full and on-time payment. Second, OCA asked Columbia Gas to provide, by month, from the month October 2018 to May 2020, the number of CAP customers receiving LIHEAP who have a bill credit on their account each month. Then OCA provided a Table as a restatement of Table 1 (OCA St. 5 at 9), except instead of presenting the number of CAP disconnections, OCA's witness presented the number of CAP accounts receiving LIHEAP who have a bill credit on their account. The table also includes data provided by Columbia after OCA asked for data, by month, the number of CAP accounts not receiving LIHEAP which had a bill credit.

Table 2S. CAP Bills, CAP Full Payments, CAP Accounts Receiving LIHEAP with Bill Credits (Oct. 2018 – Dec. 2019)					
	CAP Bills	CAP Full Pyts	Pct Full Pyts	CAP Accts Receiving LIHEAP with Bill Credit	CAP Accounts NOT Receiving LIHEAP with Bill Credit
Oct-18	24,495	12,830	52%	788	612
Nov-18	22,203	12,120	55%	697	567
Dec-18	20,567	9,377	46%	635	548
Jan-19	24,787	9,832	40%	755	675
Feb-19	21,328	9,946	47%	630	613
Mar-19	23,305	11,313	49%	706	697
Apr-19	23,562	12,754	54%	691	726
May-19	25,575	14,013	55%	754	816
Jun-19	21,688	13,392	62%	625	708
Jul-19	24,891	15,525	62%	700	839
Aug-19	23,341	16,102	69%	630	787
Sep-19	21,761	15,405	71%	329	429
Oct-19	23,446	16,482	70%	2	1
Nov-19	20,730	12,069	58%	2	1
Dec-19	20,349	9,678	48%	1	1
Average	22,802	12,723	56%	535	530
	OCA-IV-1	OCA-IV-1		OCA-IV-9	OCA-IV-9

OCA St. 5-S at 12-13.

OCA explained the table shows the LIHEAP grants would not be sufficient to bridge the gap between the number of CAP bills issued, the number of full payments received and the number of CAP accounts with bill credits received. OCA St. 5-S at 13. OCA's witness contended Table 2S shows the difference between the number of CAP bills issued, and the number of "full payments" received on CAP accounts, is not explained by the number of CAP accounts with bill credits each month (whether those bill credits are explained by the receipt of LIHEAP or by some other factor). To illustrate, in May 2018, the Company issued 25,575 CAP bills and received 14,013 full payments. However, only 754 CAP accounts (who had received a LIHEAP payment) had a bill credit, and only 816 CAP accounts (who had not received a LIHEAP payment) had a bill credit. Contrary to what Columbia asserts, the presence of bill

credits does not explain the difference between the number of full payments and the number of CAP bills. OCA St. 5-S at 13.

OCA also does not agree with the Company's explanation that there are "other reasons" why customers may not be disconnected for nonpayment, such as the presence of disputes, the existence of medical certificates, and the presence of winter shutoff restrictions. CPA St. 13-R at 3. OCA argues these "other reasons" do not explain the significant difference between the number of CAP bills rendered each month and the number of timely payments received. *See* OCA St. 5-S at 15. OCA also notes the nonpayment of CAP bills create additional costs for other ratepayers because the nonpayment of a CAP bill imposes costs on other ratepayers, including such costs as working capital requirements, credit and collections expenses, and bad debt expense. OCA contends the level of unpaid CAP bills for Columbia's CAP customers is of particular concern because the Company previously stated pits practices "are in accordance with" the PUC directive that the Company "should initiate collection activity for CAP accounts when a customer has no more than two (2) in-program payments in arrears." OCA St. 5 at 11.

OCA argues Columbia needs to direct greater attention to ensuring that its CAP customers pay the affordable bills that are delivered to them. OCA recommends Columbia submit to its Universal Services Advisory Committee within six months of a final Order in this proceeding the question of how customer payments on CAP bills can be pursued through a reasonable process. OCA St. 5 at 11.

iii. Energy Burdens

OCA notes CAUSE-PA proposed to change the energy burdens for Columbia's CAP customers to the energy burdens identified in the Commission's *Final CAP Policy Statement Order*. (*See* CAUSE-PA St. 1 at 25-27*; Final CAP Policy Statement Order* at 9-32). CAUSE-PA recommended the Company's energy burdens should be reduced to 4% for customers at or below 0-50% of the Federal Poverty Level and to 6% for customers from 51-150% of the Federal Poverty Level. CAUSE-PA St. 1 at 26; *see Final CAP Policy Statement*

Order at 9-32. OCA notes Columbia opposed the proposed changes to its energy burdens and OCA points out it agrees with Columbia that the energy burdens for Columbia's CAP program should not be changed as a part of this base rate proceeding.

OCA contends the Commission's *Final CAP Policy Statement Order* anticipated that utilities would address the energy burdens in their USECPs, and not in a base rate proceeding. *Final CAP Policy Statement Order* at 2. In the Commission's *OCA Reconsideration Order,* the Commission specifically provided:

> We remind stakeholders that the maximum energy burden percentages in the Annex to the November 5 Order are recommendations, not iron-clad limits on what a utility can charge a CAP household. Issues related to a specific utility's energy burdens are still subject to scrutiny in that utility's USECP proceedings.[387]

OCA submits the purpose of a review in the Company's USECP is to review the entire Plan as a whole in consideration of all interrelated provisions of the Final CAP Policy Statement. OCA asserts it agrees with Columbia which argued that the appropriate level of the Columbia percentage of income burden should be determined in the Company's proceedings regarding its Universal Service and Energy Conservation Plan and not in this proceeding. Columbia St. 13-R at 15-16. OCA agrees with the Company's position that the energy burdens should be established as a part of the Company's USECP and not the instant base rate proceeding. *See* OCA St. 5-S at 19.

OCA notes the energy burdens are only one component of the CAP program, and the CAP Policy Statement does not evaluate the energy burdens in a vacuum, instead the OCA Reconsideration Order provided that proposed changes to the energy burdens should be filed as a part of the Company's amendments to its Universal Service and Conservation Plan. OCA Reconsideration Order at 10-11; *Final CAP Policy Statement Order* at 2. OCA argues the reason these issues should be evaluated in the context of the USECP is that the Plan must also evaluate

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[387] *2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa.Code §§ 69.261-69.267,* Docket No. M-2010-301259, Order at 10-11 (Feb. 6, 2020) (*OCA Reconsideration Order*) (Feb. 6, 2020).

whether additional cost controls are needed as well. In addition, OCA notes the OCA Reconsideration Order provided that changes to the energy burdens should be considered as a part of the utility-specific USECP. OCA Reconsideration Order at 10-11. Accordingly, OCA submits the Commission should not approve the proposed changes to the energy burdens in this proceeding and any proposed changes to the energy burdens should be evaluated along with any necessary cost control measures as a part of Columbia's Universal Service and Energy Conservation Plan.

iv. Low-Income Customer Outreach

a) Introduction

In response to the Commission's June 2020 "Management and Operations Audit" of Columbia, OCA recommends Columbia address the identified payment difficulties for its confirmed low-income population through improved low-income customer outreach. OCA St. 5 at 12. In its Management Audit, the Commission specifically addressed the relationship between low-income payment difficulties and participation rates in the Company's universal service programs, most specifically in CAP. OCA's witness testified:

> The Management Audit specifically included, as one of its major recommendations[,] the recommendation that CGPA "implement various strategies to reduce arrearage levels such as increasing CAP enrollment…" (Management Audit, at 5, 8, 59). In its "Implementation Plan" in response to the Management Audit, CGPA accepted the Audit's recommendation and indicated that the steps to respond to that recommendation were "in progress." (CGPA, "2020 Implementation Plan in Response to the 2019 Focused Management and Operations Audit, Docket No. D-2019-3011582, at 17). CGPA indicates that the steps that were "in progress" included "implementation action steps" to "Develop and document an Outreach Strategy and Communication plan to increase enrollment in Universal Programs, including CAP, with input from the Universal Service Advisory Committee."

OCA St. 5 at 12-13. In accordance with the Management Audit findings, OCA recommends the Company develop an appropriate Outreach Strategy and Communication Plan to increase CAP

enrollment. OCA St. 5 at 13. OCA's witness recommends the "Outreach Strategy and Communication Plan" should incorporate the following principles:

> - Rather than relying primarily on call center contacts as described above, use the community as a means of identifying and engaging the hard-to-reach population.
>
> - Rather than relying primarily on staff contacts as the means of identifying low-income customers, focus on relationship-building.
>
> - Rather than relying primarily on customers initiating contacts (whether to apply for assistance, or to be in contact with a "self-declaration"), go to the community (reaching them "where they live, work, shop, play and pray") rather than making the community come to you.
>
> - Rather than relying primarily on CGPA communications (as well as government officials) as described above, rely on grassroots "trusted messengers" from within the community.

OCA St. 5 at 26-27.

OCA recommends that CAP outreach be explicitly incorporated into Columbia's collections performance and identified four ways that CAP outreach could be incorporated. First, whenever a Confirmed Low-Income customer is offered a payment arrangement through which to retire an arrearage, that Confirmed Low-Income customer should be offered the option of enrolling into CAP (with access to arrearage forgiveness). Second, prior to the involuntary disconnection of service due to nonpayment to Confirmed Low-Income customers, such Confirmed Low-Income customers should be provided the option of enrolling into CAP (with access to arrearage forgiveness). Third, once service to a Confirmed Low-Income customer has been disconnected for nonpayment, the customer with disconnected service should be provided the option of reconnecting service by enrollment in CAP, with access to arrearage forgiveness for any arrears incurred preceding the disconnection. Finally, when a Confirmed Low-Income customer is contacted by Columbia as part of the annual Cold Weather Survey, and found to be

either: (a) using a potentially unsafe heating source or (b) without service (as each of those terms is defined by the Commission); that Confirmed Low-Income customer should be provided with the opportunity to enroll in CAP. OCA St. 5 at 27-28. OCA submits that its outreach recommendations are designed to provide additional opportunities to reach otherwise hard-to-reach customer populations who may not be aware of the benefits of CAP.

b) A substantial number of Columbia's confirmed low-income customers are in arrears

OCA noted it agrees with the concerns raised by the June 2020 Management Audit. OCA's witness performed an analysis and examined the extent to which Columbia's confirmed low-income population is in debt in addition to examining the Company's collections policies and their impact on CAP enrollment from several different perspectives: (1) the Bureau of Consumer Services' universal service statistics; (2) the Cold Weather Survey; and (3) Columbia's CAP participation by poverty level.

OCA, through its witness, determined Columbia has a substantial number of confirmed low-income customers who remain in debt each year plus the arrearage levels for Columbia's confirmed low-income population has progressively worsened since 2016. OCA St. 5 at 13-14, Table 3. OCA's witness determined the percent of accounts for Confirmed Low-Income customers who are in debt ranged from 15.9%, or 10,749 customers, in 2018 to 18.0%, or 12,294 customers, in 2016. OCA agrees the number of Confirmed Low-Income customers in debt is declining but contends the decline is because Columbia is confirming fewer and fewer customers have a low-income status and points out Columbia had 68,178 Confirmed Low-Income customers in 2016 but only 67,590 in 2018.

In addition, OCA's witness determined that the customers who were in debt in 2018 were more in debt than customers in debt in 2016. He calculated that the average total debt for Confirmed Low-Income customers in 2018 ($602.49) was nearly 14% higher than the average total debt of such customers in 2016 ($529.75) (or $602.49/$529.75 = 1.137). He also determined that both the average debt of customers on payment arrangements in 2018 ($688.86)

and the average debt of customers not on payment arrangements in 2018 ($406.98) were substantially higher than those same figures in 2016.

Table 3. Arrearages for CGPA Confirmed Low-Income (CLI) (2016 – 2018) (BCS Annual Report on Universal Service Programs and Collections Statistics)							
	Pct CLI Accts in Debt	# CLI in Debt on Arrangem ent	Avg $s CLI in Debt on Arrangem ent	# CLI in Debt No Arrangem ent	Avg $s CLI in Debt No Arrangem ent	Total # CLI in Debt	Avg $s Total CLI in Debt
2016	18.0%	8,772	$608.88	3,522	$332.67	12,294	$529.75
2017	16.3%	7,609	$634.56	3,450	$362.52	11,059	$549.70
2018	15.9%	7,456	$688.86	3,293	$406.98	10,749	$602.49

OCA St. 5 at 13-14.

OCA's witness examined the annual Bureau of Consumer Services' universal service statistics from 2016 through 2018 for collections performance for Confirmed Low-Income customers. OCA St. 5 at 14. He found the data showed the number of payment-troubled customers in Columbia's service territory was very high; the number of customers who had been involuntary disconnected increased for the 2016-2018 time period; and the number of customers whose service was reconnected remained below 50%. OCA St. 5 at 14-16, Table 4. In addition, he examined the Cold Weather Survey reports for the reinstatement of heating service subsequent to a service disconnection and found a similar pattern as identified in the BCS statistics. OCA St. 5 at 16-17. OCA provided Table 5 below to demonstrate that many customers who were disconnected from service failed to be reconnected to service. OCA St. 5 at 17, Table 5.

Table 5. 2018 and 2019 Cold Weather Survey Results (CGPA)			
	Total HHs Using Unsafe Heating Sources	Total HHs without Service After Completion of Survey /a/	Total HHs without a Central Heating Source Due to Termination of Utility Service /b/
2018	233	580	813
2019	283	528	811

/a/ Excludes households using potentially unsafe heating sources, other central heating sources, vacant.

/b/ Includes households using potentially unsafe heating sources and excludes other central heating sources and vacant residences.

OCA's witness reviewed Columbia's CAP participation by poverty level and found the income levels where the greatest need for participation and enrollment exists in Columbia service territory. OCA presented the Table below to show that, in 2018: 22.4% of all CAP participants had income between 0% and 50% of Poverty; 44.5% of CAP participants had income between 51% and 100% of Poverty; and 33.1% of all 2018 CAP participants had income between 101 and 150% of Poverty. OCA contends the data shows Columbia has an under-representation of customers in the lowest and highest income brackets, while having a substantial over-representation of customers in the middle income bracket.

Table 6. CGPA CAP Participation by Poverty Level (2016 – 2018) (BCS Annual Report on Universal Service Programs and Collections Statistics)						
	CAP Participation (#s)			CAP Participation (%)		
	0 – 50%	51 – 100%	101 – 150%	0 – 50%	51 – 100%	101 – 150%
2016	4,537	9,922	7,050	21.1%	46.1%	31.8%
2017	5,068	10,409	7,444	22.1%	45.4%	32.5%
2018	5,426	10,772	8,012	22.4%	44.5%	33.1%

OCA St. 5 at 17.

OCA asserts a particular concern about the under-representation of the lowest income range (below 50% of the Federal Poverty Level) among Columbia's customers is that, due to low-income, these customers are most likely to have natural gas bills that represent a high percentage of income (i.e., "bill burden" or bill as a percentage of income). As a result, these customers are more likely to have payment troubles which problems are meant to be addressed by enrollment in CAP, but these customers in the lowest income range are not enrolling in the Company's CAP in a percentage which reflects their percentage in the total population. OCA St. 5 at 17-18.

OCA submits the resultant customer payment difficulties due to unaffordable bills have an impact on the expenses that Columbia incurs which it passes on to its customers in rates. OCA St. 5 at 18. OCA's witness testified about the impact of those difficulties:

> The payment difficulties I have discussed above each have an impact on the expenses which CGPA incurs and passes on to its customers through rates. Addressing these payment difficulties by enrolling income-eligible customers in CAP, and through other universal service programs (e.g., LIURP, hardship fund) not only addresses the customer-perspective associated with an inability-to-pay, but addresses the utility-perspective financial consequences associated with inability-to-pay as well.

> The question is not how to design and implement the universal service programs, which are questions presented in proceedings involving the review of USECP plans. The question for this proceeding is for those customers who are low-income, who will be harmed by the rate decisions advanced by CGPA in this proceeding, who do *not* participate in CGPA's universal service programs, but who would benefit from such participation.

OCA St. 5 at 18-19.

OCA notes it examined how the Company identifies its low-income customers and observes Columbia stated a customer is identified as low-income when the customer receives Low Income Home Energy Assistance Program (LIHEAP) or Hardship Fund grants, enrolls in CAP and "those who self-declare their income at or below 150% of FPL [Federal Poverty Level]." OCA St. 5 at 19. OCA contends Columbia's methodology unnecessarily limits the Company's pool of confirmed low-income customers and asserts its witness' analysis demonstrated there is an unmet need for payment assistance for Columbia's confirmed low-income customers, particularly those in the lowest income tier of 0-50% of the Federal Poverty Level.

OCA recommends, in more detail below, the Company should utilize more effective and targeted outreach to address the confirmed low-income customer arrearages.

c) More effective outreach is needed to address the confirmed low-income customer arrearages.

OCA submits that effective outreach is a critical component in the design of low-income programs and to addressing the issues with the payment behaviors of Columbia's confirmed low-income customers. OCA contends there are strategies to improve the outreach efforts of the Company, and in particular, to leverage the community-based resources to benefit low-income customers such as the use of the community to engage hard-to-reach populations, collaboratives, and relationship building. OCA St. 5 at 20. Plus, OCA asserts Columbia should make use of "trusted messengers" to build a sustainable outreach network because these trusted

sources are crucial as partners with Columbia because these trusted messengers are the resources to whom people in need turn to for assistance. OCA St. 5 at 22.

OCA recommends Columbia utilize the proposed strategies develop its Outreach and Communications Plan in response to the June 2020 Management Audit so outreach will be explicitly incorporated to address CAP customer arrears and collections. *See* OCA St. 5 at 26-27. The recommendations support the Commission's June 2020 Management Audit and are designed to leverage trusted resources in the community in order to reach otherwise hard-to-reach low-income customer populations. OCA submits the additional outreach efforts will help to increase enrollment in CAP, but the true purpose of such enrollment, as set forth in the Commission's Management Audit, is to help Columbia reduce its residential arrears.

b. Health and Safety Pilot

OCA does not address issues related to the Health and Safety Pilot.

c. LIURP

OCA does not address issues related to LIURP.

d. Hardship Fund

OCA does not address issues related to the Hardship Fund.

e. Pipeline Replacement Issues

OCA does not address any of the issues related to Columbia's Distribution Integrity Management Program, Pipeline Replacement, Pipeline Replacement Costs and Risk Reduction.

4. OSBA's Position

OSBA did not brief these issues.

5. CAAP's Position

CAAP did not set forth legal argument under Part IX and its subparts A:1-3 but did brief on subparts A:4 and 5.

a. LIURP

CAAP asserts the Natural Gas Choice and Competition Act requires the Commission to continue, at a minimum, the universal service and energy affordability policies, practices, and services affecting low-income households that were in existence as of the effective dates of the Act.[388] CAAP points out that, under the Natural Gas Choice and Competition Act, "universal service and energy conservation" is defined as the policies, practices, and services that help low-income customers maintain utility service. CAAP contends the Act ties the affordability of natural gas service to a customer's ability to maintain utility service, however, the Act does not specifically define the term "affordable" as it relates to the provision of natural gas services to customers.

CAAP contends LIURP is a universal service program designed to help low-income residential customers conserve energy with the stated goal to assist low-income residential customers to reduce energy bills through usage reduction programs. CAAP asserts the overall goal of LIURP is to make bills more affordable and increase payment behaviors for economically vulnerable consumers.[389] CAAP agrees with the Commission there is great value in LIURP programs which have been successful at assisting low income customers, reducing bad

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[388] 66 Pa.C.S.A. § 2802(10).

[389] 52 Pa.Code § 58.1.

debt by reducing customers' bills and enabling customers who receive LIURP services to pay their entire bill plus contribute to their arrearage."[390]

CAAP notes the Company's LIURP program is known as the WarmWise program and annual funding for WarmWise for the years 2020 and 2021 has been set at $4,875,000. CAAP points out the parties agreed not to propose any increase in the LIURP budget prior to the end of the 2021 program year, in the settlement reached in its 2018 rate case.[391] CAAP asserts it will certainly abide by that agreement, however, for the period beyond 2021, CAAP believes more funding is needed to begin to address the great need for LIURP services in the Company's service territory, should the Commission grant a rate increase.

CAAP proposes increased funding for LIURP because there is an unmet need for LIURP services. In its most recent Universal Service and Energy Conservation Plan (USECP) filing (at Docket No. M-2018-2645401), the Company estimated it serves 101,375 low-income households with 67,659 households confirmed as low-income. In discovery responses herein, the Company estimated it now serves 97,268 low-income households with 68,534 household confirmed as low-income as of May 2020. In its USECP, the Company estimated there were 18,647 households eligible for LIURP services. CAAP also noted Columbia indicated it completed 497 LIURP jobs in 2019 and 94 jobs from January to March 2020.[392]

CAAP argues this combination - of more than 18,000 customers eligible for LIURP plus Columbia's significant proposed rate increase - requires an increase in LIURP funding. Further, CAAP contends the current level of LIURP funding did not account for this anticipated rate increase and finds it difficult to imagine how the current LIURP budget can be considered appropriately funded to help ratepayers maintain utility service should the Commission grant a rate increase without an increase in LIURP funding. CAAP asserts that, with over 18,000 customers in need of LIURP services, there is a great need for LIURP services.

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390 *See* Commission's Final Order on Duquesne Light Company's restructuring at Docket No. R-00974104 at page 293.

391 CAAP St. No. 1 at 5.

392 CAAP St. No. 1, p 6.

CAAP recommends, should the Commission grant a rate increase, the number of customers Columbia serves annually should be increased from the targeted 540 to 600. In addition, with an average LIURP cost of approximately $7,000, CAAP recommends an additional annual LIURP funding of $420,000, beginning in the 2022 program year.

b. Hardship Fund

CAAP recommends the Company's hardship fund be increased from $675,000 to $800,000 annually with the Company contributing what is necessary to reach that funding level after customer contributions. Although modest in comparison to other universal service fundings, CAAP asserts its proposal will help customers deal with a rate increase in these difficult economic times. CAAP also recommends hardship funding be distributed in accordance with the percentage of low-income customers in the counties served by the Company.

c. Pipeline Replacement Issues

CAAP did not brief the issues under Part IX subparts B(1-4).

6. CAUSE-PA's Position

a. Low-Income Customer Issues

i. Customer Assistance Program

CAUSE-PA urges the Commission to require Columbia to reduce its CAP Percentage of Income Payment (PIP) rates to meet the maximum CAP energy burden standards, as set forth in the Commission's CAP Policy Statement, to offset categorical unaffordability at current and proposed rates. (CAUSE-PA MB at 11-16). Columbia opposes this position despite its agreement to adhere to future revisions to the Commission's maximum CAP energy burden standards as part of a comprehensive, Commission-approved settlement in its last rate case. (CAUSE-PA MB at 14-15).

CAUSE-PA argues Columbia's assertions - that most CAP customers will not face any or little adverse impact from an increase in rates because the monthly CAP payment is based on factors which are unrelated to rates – are untrue. CAUSE-PA notes that 61.8% of Columbia's CAP customers are billed at the 50% of budget payment option, and will thus be charged half of any approved rate increase after their next budget true-up.[393] CAUSE-PA contends only 38.2% of current CAP customers are shielded from the financial impact of a rate increase. (CAUSE-PA St. 1 at 22). In addition, CAUSE-PA asserts the proposed rate increase will impact the bills of future CAP customers as well, who enroll in the CAP average payment plan after the rate increase takes effect, because the average will be based on higher bills. (CAUSE-PA MB at 44; CAUSE-PA St. 1 at 22-23). CAUSE-PA argues Columbia's proposed rate increase will have a substantial impact on a majority of its current CAP customers as well as future program participants. This bill impact would add to the already disproportionate energy burdens of low-income customers. (CAUSE-PA MB at 45; CAUSE-PA St. 1 at 15-16).

CAUSE-PA notes Columbia's assertion - in 2018, its "asked-to-pay" amount was identified as the lowest average payment of all Pennsylvania utilities – is not reflective of current condition and is irrelevant to this proceeding, which by definition looks at current and future projected rates to determine the justness and reasonableness of proposed rates. (CPA MB at 103). CAUSE-PA points out that in 2020 nearly every Pennsylvania natural gas utility, *except Columbia*, has petitioned the Commission to voluntarily adjust their CAP rates to comply with the Commission's CAP Policy Statement.[394] Further, the Commission has held the energy burdens resulting from Columbia's PIP rates are categorically unaffordable, stating: "**the current maximum energy burden ranges based on the FPIGs in the CAP Policy Statement**

[393] CPA MB at 44; CAUSE-PA St. 1 at 22; CAUSE-PA St. 1-SR at 5-6.

[394] *See Peoples Natural Gas Company LLC Addendum to Universal Service and Energy Conservation Plan*, M-2014-2432515; M-2018-3003177 (filed January 6, 2020); *Petition of UGI Utilities, Inc to Amend its Universal Service and Energy Conservation Plan,* M-2019-3014966, P-2020-3019196; *Petition for Expedited Approval of PGW's Letter Request to Amend its Universal Service and Energy Conservation Plan Pursuant to the 2019 Amendments to the Policy Statement,* Docket Nos. M-2019-3012599, P-2020-3018867.

do not reflect reasonable or affordable payments for many low-income customers."[395] This statement applies to Columbia's current PIP rates, which substantially exceed the Commission's recommended revisions. (CAUSE-PA MB at 11-13).[396]

Again, CAUSE-PA points out that Columbia untruthfully asserted that reducing its PIP percentages to comply with the Commission's maximum CAP energy burden standards is not necessary because very few PIP customers are removed for nonpayment. (CPA MB at 106). CAUSE-PA asserts Columbia terminated 1,037 CAP customers in 2019 for nonpayment, which amounts to roughly 5% of CAP participants – *nearly twice the overall termination rate for residential customers* (2.7%). (CAUSE-PA St. 1 at 19). CAUSE-PA argues Columbia's assertion - that it doesn't need to address unaffordability because 5% of CAP customers were terminated in 2019 (before the pandemic) - minimizes the severe hardship of those customers forced to go without service simply because they lack the resources to afford service with the assistance of a universal service program. In addition, Columbia ignores the devastating reality that low-income households forego food and medicine or keep their home at an unsafe or unhealthy temperature to meet their home energy expenses, even in relatively good economic times. (CAUSE-PA St. 1 at 17). CAUSE-PA contends Columbia has not proven its CAP bills are affordable simply because many CAP participants are able to avoid termination. Households cannot live without heat, so these customers are forced to go to great lengths to meet unreasonable and unjust payment requirements to keep their families safe and warm in their homes. (CAUSE-PA St. 1 at 16-18). CAUSE-PA argues this result is unacceptable, and flies in the face of the Commission's and Columbia's universal service obligations.[397]

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[395] 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-69.267, *Final CAP Policy Statement and Order*, Docket No. M-2019-3012599 at 27 (Nov. 5, 2019) (hereinafter Final CAP Policy Statement and Order). (emphasis added). The Commission went further in its declaration that the former energy burden standards, which Columbia continues to apply, are categorically unreasonable and unaffordable, explaining: "**This would be our conclusion even if the currently specified burdens are considered only presumptively reasonable or affordable**." *Id.*

[396] Columbia's PIP rate is currently:7% for customers with income at or below 110% of the Federal Poverty Level (FPL) and 9% for customers between 111-150% FPL; whereas, the Commission's maximum energy burden thresholds for natural gas are 4% for customers at or below 50% of the Federal Poverty Level (FPL), and 6% for customers at 101-151% FPL. *See* CAUSE-PA MB at 11-13.

[397] 66 Pa.C.S.A. §§ 2202, 2203 (8).

CAUSE-PA argues Columbia is wrong to assert a customer can simply move to a different CAP payment plan if the customer's CAP rate is too high (CPA MB at 106), because none of Columbia's current CAP payment options provide affordable bills for customers at or below 50% FPL, according to the Commission's standards. CAUSE-PA points out that, in 2019, the energy burdens for Columbia's CAP customers at or below 50% FPL ranged from 5.24% to 8.02%. (CAUSE-PA St. 1 at 16). Thus, across all Columbia's CAP options, even the lowest energy burden level provided to customers in the lowest income tier – 5.24% – still exceeds the Commission's 4% maximum energy burden standard.

CAUSE-PA argues Columbia is wrong that the additional funds provided through the Low-income Heating Energy Assistance Program (LIHEAP) alleviates any need to adjust its CAP rates. (CPA MB at 106). The Commission has concluded LIHEAP should not be considered an available resource when setting an appropriate affordability threshold for CAP. (CAUSE-PA MB at 16-18).[398] Furthermore, CAUSE-PA asserts very few of Columbia's low-income customers receive a LIHEAP grant, citing to the data that shows that, in the 2019-2020 and 2018-2019 LIHEAP seasons, just 14.7% and 16.3% of Columbia's estimated low-income customers received LIHEAP cash grants, respectively. (CAUSE-PA MB at 17). CAUSE-PA points out the annual LIHEAP budget is finite, the amount of funding fluctuates annually and funding for the program is not guaranteed in any given year. (CAUSE-PA MB at 17). Thus, Columbia cannot rely on LIHEAP to supplement its unaffordable CAP rates.

CAUSE-PA notes Columbia also argued the additional cost of reducing its CAP energy burdens to non-CAP ratepayers is not worth the benefit. (CPA MB at 106-107). However, CAUSE-PA pointed out the cost of providing an affordable bill to CAP customers on a per customer basis is relatively low, and can be offset by spreading the cost across all customer classes, which the Commission contemplated in its Final CAP Policy Statement and Order.[399] CAUSE-PA contends the additional costs of reducing CAP energy burdens to an affordable rate

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[398] *See Final CAP Policy Statement and Order* at 50-51.

[399] *Final CAP Policy Statement and Order* at 7, 80-97, 104.

are *"*a small price to pay in return for the host of far-ranging individual and societal benefits associated with improved energy affordability.*"* (CAUSE-PA St. 1 at 27).

CAUSE-PA noted both Columbia and OCA argued Columbia's most recent USECP was approved in January 2020 and asserted additional changes should wait until the Company's next USECP filing. (CPA MB at 107; OCA MB at 119-122). However, CAUSE-PA contends both OCA and Columbia were signatories to the settlement in Columbia's last rate case, wherein the Company agreed to adjust its CAP energy burdens in compliance with the recommended maximum CAP energy burdens once the Energy Affordability Study was released. (CAUSE-PA St. 1 at 13).[400] Columbia agreed to make the Commission's recommended changes by its next USECP proceeding **"or earlier date dictated by the Commission's Energy Burden Study (<u>whichever is sooner</u>)."**[401] As an outgrowth of its Energy Burden Study, the Commission reduced the applicable energy burden standards and required each utility to make a filing indicating the extent to which each utility intended to comply with the new standards. In response, nearly every natural gas company has voluntarily complied *except for Columbia* – notwithstanding the fact that Columbia was under an independent settlement obligation to do so. (CAUSE-PA MB at 14).[402]

Ultimately, Columbia's low-income consumers simply cannot afford wait nearly five years for Columbia to correct *current* unaffordable CAP rates – which the Commission has definitively found to be unreasonable. The Commission extended the USECP filing schedule, which pushes Columbia's next USECP filing out to April 1, 2024, with approval not likely until sometime in 2025, which is far beyond the time period contemplated by the parties at the time of

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[400] *See Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Joint Pet. for Partial Settlement, Docket No. R-2018-2647577 at 5 para. 57 (filed Aug. 31, 2018). (emphasis added).

[401] *Id.* (emphasis added).

[402] *See also Peoples Natural Gas Company LLC Addendum to Universal Service and Energy Conservation Plan*, M-2014-2432515; M-2018-3003177 (filed January 6, 2020); *Petition of UGI Utilities, Inc to Amend its Universal Service and Energy Conservation Plan*, M-2019-3014966, P-2020-3019196; *Petition for Expedited Approval of PGW's Letter Request to Amend its Universal Service and Energy Conservation Plan Pursuant to the 2019 Amendments to the Policy Statement*, Docket No. M-2019-3012599, P-2020-3018867.

the settlement. (CAUSE-PA MB at 15).[403] CAUSE-PA argues the combination of the existing need identified in the Energy Affordability Study, compounded by the COVID-19 pandemic and Columbia's proposed rate increase, calls for immediate action, because 2025 is simply too long for Columbia's customers to be forced to wait for reasonable and affordable CAP rates.

ii. Low-Income Customer Outreach

a) CAP Reduction

CAUSE-PA recommends Columbia design a plan to reach 50% of confirmed low-income customer enrollment in CAP by 2025. (CAUSE-PA MB at 25, CAUSE-PA St. 1 at 44). Despite Columbia's assertion that the effectiveness of its CAP outreach should not be based on the percentage of confirmed low-income customers enrolled in CAP (CPA MB at 104), CAUSE-PA contends CAP participation – defined as "the number of participants enrolled as of Dec. 31, 2019, divided by the number of confirmed low-income customers"– is the only currently verifiable measure for the effectiveness of CAP outreach.[404] CAUSE-PA argues, "Columbia's *estimated* low-income customer figure (24%) presents a more accurate picture of Columbia's pre-pandemic low-income customer population," (CAUSE-PA St. 1 at 10 (emphasis added)) and a more realistic assessment of the number of low-income households served by Columbia by using verified census data and Columbia customer data. CAUSE-PA asserts that, while it is not likely every single Columbia customer who has income at or below 150% FPL has informed the Company of this fact, it is much more likely that Columbia's customer demographics are reflective of the general population within the counties within the Company's service territory. (CAUSE-PA St. 1 at 10). As a result, CAUSE-PA contends, even counting self-declared income, Columbia's confirmed low-income count (17%) is likely much lower than the actual number of low-income households in its service territory. (CAUSE-PA St. 1 at 10).

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[403] *See* Universal Service and Energy Conservation Plan (USECP) Filing Schedule and Independent Evaluation Filing Schedule, *Order*, Docket No. M-2019-3012601 (Oct. 3, 2019).

[404] *See* Pa. Pub. Util. Comm'n, BCS, 2019 Report on Universal Service Programs and Collections Performance at 50 (Sept. 2019), https://www.puc.pa.gov/filing-resources/reports/universal-service-reports/.

CAUSE-PA contends Columbia is wrong to assume a paid bill is an affordable bill because low-income customers often are forced to make tradeoffs for critical necessities in order to afford utility service. (CAUSE PA St. 1 at 14-15). It notes, according to the U.S. Energy Information Administration, roughly 1 in 5 households in 2015 (when the economy was experiencing a relatively prosperous economic period) reported the household reduced or did without other critical necessities, such as food and medicine, to afford home energy costs, and more than 1 in 10 reported keeping their home at an unsafe or unhealthy temperature. (CAUSE-PA St. 1 at 17). In fact, even with financial assistance, low-income households are unable to afford the cost of energy, according to a survey conducted by the National Energy Assistance Directors' Association, which found 72% of LIHEAP recipients reported they forego other necessities to afford energy, and 26% reported keeping their home at unsafe or unhealthy temperatures. Indeed, as recent research and data has shown, vulnerable low-income families simply cannot afford the cost of energy services. (CAUSE-PA St. 1 at 17).

CAUSE-PA asserted the metric used to assess the effectiveness of CPA's outreach should be CPA's results, and not be based on how much money it spends, the number of pamphlets it distributes, or the number of ads it buys. It argues the outreach needs to be evaluated on whether it works, which necessarily requires an evaluation of the results of the outreach, not just the efforts. CAUSE-PA suggests the Commission should require the Company to measurably improve and benchmark its CAP enrollment rates to reach a greater number of households in need of assistance. (CAUSE-PA St. 1 SR at 9) because Columbia's arguments - that it should not be required to produce verifiable results through increasing its CAP Participation - are without merit. Columbia should be required to improve CAP enrollment.

b. Health and Safety Pilot

CAUSE-PA recommend Columbia extend the timeframe and increase the budget for its LIURP Health and Safety Pilot, which helps high usage, low-income customers (who would not otherwise be able to access LIURP services due to health and safety issues) to reduce their usage (and their bill) over the longer term. (CAUSE-PA St. 1 at 24-27). CAUSE-PA notes Columbia opposed this recommendation because the pilot was in its early stages, the pandemic

caused the cessation of in-home services, and it is premature to make changes to the program. (CPA MB at 110). CAUSE-PA recommends the Commission note the irony that Columbia argued profound economic disruptions caused by the pandemic should be ignored in reviewing its request for a substantial increase in rates, but then relied on the pandemic to support its refusal to adopt reasonable mitigation measures for high usage, low-income customers.(CPA MB at 110). CAUSE-PA contends Columbia's Health and Safety program is not sufficiently budgeted to meet the need identified in the evaluation that led to its creation. (CAUSE-PA MB at 25-26; CAUSE-PA St. 1 at 30-31.) It notes the 2015 evaluation assessment, that formed the foundation of Columbia's program, found that health and safety issues prevented 120 jobs from needed weatherization that year; however, the Pilot is only currently budgeted to serve 30 households per year. (CAUSE-PA MB at 25). CAUSE-PA notes Columbia was willing to extend the pilot into 2023 to allow for a full two years of implementation (CPA St. 13-R at 19), but also notes that, while extending the program to make up for time lost to COVID-19 would certainly be beneficial, additional funding is necessary to the success of the Pilot to ensure that it is adequately budgeted to serve the identified need and help more high usage, low-income households achieve long term bill reduction.

c. LIURP

CAUSE-PA notes CAAP recommended that Columbia's LIURP budget be increased by $420,000 (CAAP St. 1 at 5), but Columbia disagreed, stating that its budget is already high enough and it has rollover funding each year. (CPA MB at 111). CAUSE-PA agrees with CAAP that the Commission should require Columbia to increase its LIURP budget and, if this increase causes additional rollover, Columbia should make efforts to ramp up the program to ensure the program is meeting the identified need for services. (*See* CAAP St. 1 at 5).

d. Hardship Fund

CAUSE-PA agrees with CAAP's recommendation that Columbia increase the Hardship Fund from $650,000 to $800,000 annually, with the Company contributing any amount

necessary to reach $800,000 in funding after customer contributions. (CAAP St. 1 at 7). CAUSE-PA argues Columbia's opposition and assertion it will recover those costs from customers if required to increase the Hardship Fund is indicative of Columbia's abdication of responsibility to address existing affordability issues and the effects of the ongoing pandemic and economic crisis currently wreaking havoc throughout its service territory. (CAUSE-PA St. 1 at 7-12, 14, 41-42). CAUSE-PA contends the "impact of service termination on low-income households will be particularly profound if the pandemic persists – or if Pennsylvania faces a resurgence of the COVID-19 virus in the winter heating months as some health experts predict." (CAUSE-PA St. 1 at 17-18). CAUSE-PA also notes that during the last week of October, 2020, Columbia filed a separate petition seeking to increase the eligibility threshold and funding for its Hardship Fund program to address COVID, but not to remediate the serious and severe financial impact of its proposed rate increase on low income consumers. In addition, CAUSE-PA contends the funding will not go as far to meet the needs of the most economically vulnerable consumers, if the eligibility threshold is increased.

Accordingly, CAUSE-PA recommends the Commission require Columbia to increase its Hardship Fund to $800,000 annually, with the Company contributing any amount necessary after customer contributions as increased Hardship Funds will help low-income customers avoid terminations, which will be vital once the current COVID-19 termination moratorium expires.

e. Pipeline Replacement Issues

CAUSE-PA did not take a position on Pipeline Replacement Issues.

7. CII's Position

CII did not brief any issue concerning Miscellaneous Issues.

8. PSU's Position

PSU did not take a position on this issue.

9. ALJ's Recommendations on Miscellaneous Issues

a. Customer Assistance Program and Energy Burdens

The ALJ agrees with OCA that Columbia Gas' collections policy is a concern and may not be consistent with the Commission's *Final CAP Policy Statement Order* (52 Pa.Code § 69.265(11). The Commission has recommended utilities initiate collection activity no later than after the customer misses two CAP payments. *Final CAP Policy Statement and Order* at 72-73; 52 Pa.Code § 69.265(11). However, Columbia Gas received only between 12,000 and 13,000 full payments after it tendered between 22,000 and 23,000 CAP bills each month for the years 2018 through 2019. OCA showed that, in dollar terms, Columbia Gas received CAP payments equal to 71.8% of the CAP bills in 2017 (payments of $9,050,991 against bills of $12,598,585); 73.4% of its CAP bills in 2018 ($10,262,398 in CAP payments against $13,972,031 of CAP bills); and 77.0% of CAP bills in 2019 ($11,066,661 in CAP payments against $14,229,197 in CAP bills). In each of the last three years, the Company fell short between 25% and 30% in fully collecting its CAP bills. OCA St. 5 at 7, Sch. RDC-1.

Despite the significant gap between the number of CAP bills tendered and the number of payments received, Columbia Gas argued there are no collections issues. The Commission has indicated the purpose of pursuing timely collection is because a low-income CAP participant is more likely to be able to pay a catch-up amount if the utility pursues collections in a prompt manner." *Final CAP Policy Statement Order* at 72. Non-CAP customers also benefit because the more CAP customers pay their monthly bills, the less cost is passed on to the non-CAP customers to pay for unpaid natural gas service. Lastly, by pursuing the unpaid CAP payments quickly, the utility can seek termination of service when the unpaid balance is low, making repayment – and ultimately, reconnection of service - easier for the CAP customer.

The ALJ suggests Columbia Gas should direct greater attention to ensuring its CAP customers pay the affordable bills that Columbia Gas delivers to them, and the Company needs to determine, with the help of its advisory committee, how customer payments on CAP bills can be pursued through a reasonable process.

Concerning energy burdens, CAUSE-PA proposed to change the energy burdens for CAP customers to be more in line with the energy burdens identified in the Commission's *Final CAP Policy Statement Order*. (*See* CAUSE-PA St. 1 at 25-27; *Final CAP Policy Statement Order* at 9-32). CAUSE-PA recommended the energy burdens should be reduced to 4% for the Company's customers whose incomes are at or below 0-50% of the Federal Poverty Level and to 6% for customers whose incomes are from 51-150% of the Federal Poverty Level. CAUSE-PA St. 1 at 26; *see Final CAP Policy Statement Order* at 9-32.

Columbia Gas opposed the proposed changes to its energy burdens and the ALJ agrees with Columbia Gas. The energy burdens for Columbia Gas' CAP program should not be changed as a part of this base rate proceeding. The Commission anticipated utilities would address the energy burdens in their USECPs, and not in their base rate proceeding. *Final CAP Policy Statement Order* at 2. There is already a process in place with the Commission for utilities to address the energy burdens. The ALJ agrees with Columbia Gas that the appropriate level of the percentage of income burden should be determined in the Company's proceedings regarding its Universal Service and Energy Conservation Plan and not in this proceeding. Columbia St. 13-R at 15-16.

However, the ALJ notes Columbia Gas' behavior, *vis a vis*, the energy burden is disturbing. As noted by CAUSE-PA, Columbia Gas' most recent USECP was approved in January 2020 and asserted additional changes should wait until the Company's next USECP filing. (CPA MB at 107; OCA MB at 119-122). Yet, in the settlement in its last rate case in 2018, the Company agreed to adjust its CAP energy burdens to be in compliance with the recommended maximum CAP energy burdens once the Energy Affordability Study was released.

(CAUSE-PA St. 1 at 13),[405] and to make the Commission's recommended changes by its next USECP proceeding "or earlier date dictated by the Commission's Energy Burden Study (whichever is sooner)."[406] As a result of the Energy Burden Study, the Commission reduced the applicable energy burden standards and required each utility to make a filing indicating the extent to which each utility intended to comply with the new standards. CAUSE-PA pointed out every natural gas company voluntarily complied except for Columbia Gas – even though Columbia Gas settled its last base rate proceeding agreeing to do the same thing. (CAUSE-PA MB at 14).[407]

The ALJ recommends Columbia Gas voluntarily comply with the Commission's energy burden standards, especially since Columbia's next USECP filing is not due until April 1, 2024, with Commission approval not likely to occur until sometime in 2025. During that time period, Columbia Gas has indicated it intends to file annual base rate proceedings. The ALJ suggests the Company should resolve this issue before 2024 and should come to its next USECP fully prepared to discuss its compliance with Commission standards.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission require Columbia Gas to improve its collections policy and, within 6 months from the Final Order herein, to submit to the Universal Services Advisory Committee a reasonable process or plan on how the Company will pursue and improve collections, especially after the pandemic.

In addition, the ALJ recommends the Commission require Columbia Gas to present evidence at its next Universal Service & Energy Conservation Plan (USECP) proceeding

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405 *See Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Joint Pet. for Partial Settlement, Docket No. R-2018-2647577, at 5 para. 57 (filed Aug. 31, 2018). (emphasis added).

406 *Id*. (emphasis added).

407 *See also Peoples Natural Gas Company LLC Addendum to Universal Service and Energy Conservation Plan*, M-2014-2432515; M-2018-3003177 (filed January 6, 2020); *Petition of UGI Utilities, Inc to Amend its Universal Service and Energy Conservation Plan*, M-2019-3014966, P-2020-3019196; *Petition for Expedited Approval of PGW's Letter Request to Amend its Universal Service and Energy Conservation Plan Pursuant to the 2019 Amendments to the Policy Statement*, Docket No. M-2019-3012599, P-2020-3018867.

explaining why its energy burden exceeded the Commission's guidance of 4% and to present a plan or process for reducing the energy burden.

b. Low-Income Customer Outreach

OCA recommended Columbia Gas address identified payment difficulties for its confirmed low-income population through improved low-income customer outreach. OCA St. 5 at 12. OCA suggested CAP outreach should be explicitly incorporated into the Company's collections performance and identified four ways that CAP outreach could be incorporated. OCA argued the percent of accounts for Confirmed Low-Income customers who are in debt ranged from 15.9%, or 10,749 customers, in 2018 to 18.0%, or 12,294 customers, in 2016. OCA acknowledged the number of Confirmed Low-Income customers in debt has declined but only because Columbia confirms fewer and fewer customers with a low-income status. OCA made specific suggestions on how Columbia Gas could improve its outreach to low income customers.

CAUSE-PA recommended Columbia design a plan to reach 50% of confirmed low income customer enrollment in CAP by 2025. (CAUSE-PA MB at 25, CAUSE-PA St. 1 at 44). CAUSE-PA disagreed with Columbia Gas' assertion that the effectiveness of its CAP outreach should not be based on the percentage of confirmed low income customers enrolled in CAP (CPA MB at 104). CAUSE-PA contended CAP participation – defined as "the number of participants enrolled as of Dec. 31, 2019, divided by the number of confirmed low-income customers"– is the only currently verifiable measure for the effectiveness of CAP outreach.[408]

Columbia Gas argued each OCA recommendation was already embodied in Columbia Gas' existing outreach efforts: (1) use the community as a means of identifying and engaging the hard to reach population; (2) focus on relationship building as opposed to relying on staff contacts; (3) go to the community rather than making the community come to you; and

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[408] *See* Pa. Pub. Util. Comm'n, Bureau of Consumer Services, 2019 Report on Universal Service Programs and Collections Performance, at 50 (Sept. 2019), https://www.puc.pa.gov/filing-resources/reports/universal-service-reports/.

(4) rather than relying primarily on Company communications, rely on trusted messengers from within the community.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends there is no need to change Columbia Gas' outreach initiatives at this time.

c. Health and Safety Pilot

Columbia Gas explained the program was designed as a pilot program to test whether the program is beneficial, and the pilot is in its first year. Columbia argued funding for the pilot should not be changed until the effectiveness of the program can be evaluated. Columbia Statement No. 13-R, p. 19. Columbia Gas' explanation is reasonable. Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission not make any changes to Columbia Gas' Health and Safety Pilot program at this time.

d. Low-Income Usage Reduction Program (LIURP)

Columbia Gas asserts it understands and does not dispute the importance of LIURP but argues against CAAP's suggestion to increase LIURP budget by $420,000 annually because Columbia submits LIURP is *over*-funded. Columbia points as proof of its statement to the carry-over funding from year to year. Columbia Statement No. 13-R, pp. 21-22.

CAAP notes the Company's LIURP program is known as the WarmWise program and annual funding for WarmWise for the years 2020 and 2021 has been set at $4,875,000. CAAP points out the parties agreed not to propose any increase in the LIURP budget prior to the end of the 2021 program year, in the settlement reached in its 2018 rate case.[409] CAAP asserts it will certainly abide by that agreement, however, for the period beyond 2021, CAAP believes more funding is needed to begin to address the great need for LIURP

[409] CAAP St. No. 1 at 5.

services in the Company's service territory, should the Commission grant a rate increase. In its most recent Universal Service and Energy Conservation Plan (USECP) filing (at Docket No. M-2018-2645401), the Company estimated it serves 101,375 low-income households with 67,659 households confirmed as low-income. In discovery responses herein, the Company estimated it now serves 97,268 low income households with 68,534 household confirmed as low income as of May 2020. In its USECP, the Company estimated there were 18,647 households eligible for LIURP services. CAAP also noted Columbia indicated it completed 497 LIURP jobs in 2019 and 94 jobs from January to March 2020.[410] CAAP recommends, should the Commission grant a rate increase, the number of customers Columbia serves annually should be increased from the targeted 540 to 600. In addition, with an average LIURP cost of approximately $7,000, CAAP recommends an additional annual LIURP funding of $420,000, beginning in the 2022 program year.

CAUSE-PA agrees with CAAP that the Commission should require Columbia to increase its LIURP budget and, if this increase causes additional rollover, Columbia should make efforts to ramp up the program to ensure the program is meeting the identified need for services.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission not make any changes to Columbia Gas' LIURP program at this time.

e. Hardship Fund

Columbia Gas disagreed with CAAP's recommendation to increase funding for the Hardship Fund from $650,000 to $800,000 annually. The Company contends CAAP fails to provide any support for its funding proposal. Columbia discussed all of the resources used to provide Hardship Fund funding, including shareholder contributions, customer and Company sponsored fundraising, and pipeline penalty credits and refund proceeds, and explained it currently has a surplus in its Hardship Fund balance of more than $700,000. Columbia Statement No. 13-R, pp. 22-23. Currently, the Hardship Fund is available to customers with

[410] CAAP St. No. 1 at 6.

incomes at or below 200% of the Federal Poverty Income Guidelines but Columbia Gas asserted it seeks to temporarily expand eligibility to customers with incomes that are at or below 300% of the Federal Poverty Income Guidelines (FPIGs).[411] Columbia Gas also opposed CAUSE-PA's recommendation because the pilot was in its early stages, the pandemic caused the cessation of in-home services, and it is premature to make changes to the program. (CPA MB at 110).

CAAP recommended the Company's hardship fund be increased from $675,000 to $800,000 annually with the Company contributing what is necessary to reach that funding level after customer contributions. CAAP recommended hardship funding should be distributed in accordance with the percentage of low-income customers in the counties served by the Company because its proposal would help customers deal with a rate increase in these difficult economic times.

CAUSE-PA recommended the Commission approve CAAP's suggestion to increase the hardship fund to $800,000 annually. CAUSE-PA noted the Pilot is only currently budgeted to serve 30 households per year, even though the 2015 evaluation assessment, that formed the foundation of Columbia Gas' program, found that health and safety issues prevented 120 jobs from needed weatherization in 2015. (CAUSE-PA MB at 25). Columbia Gas was willing to extend the pilot into 2023 to allow for a full two years of implementation (CPA St. 13-R at 19), but CAUSE-PA argued additional funding is necessary to the success of the Pilot to ensure it is adequately budgeted to serve the identified need and help more high usage, low-income households achieve long term bill reduction. CAUSE-PA recommends the Commission require Columbia Gas to increase its Hardship Fund to $800,000 annually, with the Company contributing any amount necessary after customer contributions because increased Hardship Funds will help low income customers avoid terminations.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission not make any changes to the Hardship Fund at this time, but notes the Company needs to explain at the next

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[411] The Commission issued a Secretarial Letter on November 17, 2020, granting Columbia Gas permission to temporarily increase the income eligibility levels for the Hardship Fund.

base rate proceeding what efforts it has taken to serve as many low-income customers as possible.

f. Distribution Integrity Management Program (DIMP)

Columbia Gas, as a NGDC, is mandated to adhere to its Distribution Integrity Management Program (DIMP) under the Code of Federal Regulations (CFR)[412] and it is the Company's DIMP which is used to evaluate risks to its system.[413] The ALJ agrees with BIE that Columbia Gas needs to clarify how it uses two different mechanisms - DIMP and its newly implemented Safety Management System (SMS) and present proof of the update to BIE Pipeline Safety at the conclusion of this proceeding.

The Company did not oppose BIE's proposal to amend its DIMP to explain the process of using quantitative risk scores and SME input to derive a quantitative risk evaluation that is used to determine the High-Medium-Low risk level for each asset-threat combination published in the DIMP. However, Columbia Gas did not propose to change the DIMP to show risk scores, but instead indicated it would continue to show the High-Medium-Low characterizations of risk to impress upon all SMEs the importance of treating all High risks as urgent items.

The Company and BIE continued to dispute whether Columbia Gas should update Section 7.1.2.2 of its DIMP to reflect the inclusion of all historical data in the evaluation of risks. BIE recommended Columbia Gas update Section 7.1.2.2 of its DIMP to reflect the inclusion of all historical data including leakage history, third party damages, external corrosion, over pressure, cast iron, cross bores and field assembled risers in the evaluation of its risks and present the revision to BIE Pipeline Safety at the conclusion of this proceeding. Columbia Gas asserted the pre-2016 leakage data is not reliable for trending purposes, as a result of changes to data collection and quality assurance processes. Columbia Gas argues DIMP evaluations should not

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412 49 Part 192.1001-192.1015, Subpart P.

413 I&E Statement No. 4 at 3.

be distorted by data uncertainty, and Columbia Gas opposed the recommendation to use "all available historical data" including pre-2016 leakage history.

The Company made several process changes in 2016 regarding the collection of leakage data and the leakage data quality assurance/quality control processes, but the changes that occurred in 2016 cover leakage data only, however, in addition to leakage, high risks to Columbia's system include third party damages, external corrosion, over pressure, cast iron, cross bores and field assembled risers.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission require Columbia Gas to update Section 7.1.2.2 of its DIMP to reflect the inclusion of all historical data in the evaluation of risks. The use of all available historical data prior to 2016 will give Columbia Gas and the Commission an opportunity to better evaluate trends and changes in risks to its system. The ALJ also recommends the Commission require Columbia Gas to amend its DIMP to explain the process of using quantitative risk scores and SME input to derive a quantitative risk evaluation.

g. Pipeline Replacement

BIE argued Columbia Gas should increase its pipe replacement so that the 2029 priority pipe replacement goal - as stated in the Company's most recent LTIIP - will be met.[414] BIE contended it is appropriately concerned Columbia Gas may not meet its stated 2029 replacement goal and it is important to alert Columbia to these concerns in this proceeding as part of BIE's charge to represent the public interest and to make appropriate recommendations that would reduce overall system risk.[415] BIE recommended the Commission direct the Company to increase its pipeline replacement efforts.

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[414] I&E Statement No. 4-SR at 10.

[415] I&E Statement No. 4-SR at 7-8.

Columbia Gas opposed this recommendation because the Commission has opened a mid-plan review of Columbia's Commission-approved LTIIP.[416] The Company contends a generic order to increase pipeline replacement efforts herein should not be issued to modify the specific pipeline replacement goals established through the LTIIP.

The ALJ notes that, after the hearing record closed in this proceeding, the Commission finished its periodic review of Columbia Gas' LTIIP. On November 19, 2020, on page 4 of its Opinion and Order at Docket No. M-2020-3019723, the Commission found "Columbia's infrastructure replacements have substantially met with its original goals. Although the Company had a shortfall in 2018 in its main replacements due to a reallocation of resources, this shortfall was mostly remediated in 2019 by additional main replacements. Columbia's service line replacements are slightly behind its planned schedule, but not enough to require a revision to the Company's plan."

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission make no changes to the Company's current LTIIP as Columbia Gas appears to be on track to meet its current LTIIP and long-term goals in a cost-effective manner.

h. Pipeline Replacement Cost

BIE expressed concern Columbia Gas needed to make an increased effort to negotiate better contracts and coordinate projects with other utility companies and local governments to keep costs down and to itemize expenses on pipeline replacement projects.[417] BIE recommended Columbia Gas draft a cost reduction plan to be submitted to BIE Pipeline Safety Division, which plan should outline the proposed cost containment measures and those reduction measures should be reflected in an update to the Company's LTIIP. Columbia Gas did

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[416] *See Periodic Review of Columbia Gas of Pennsylvania, Inc.'s Long-Term Infrastructure Improvement Plan* at Docket No. M-2020-3019723.

[417] I&E Statement No. 4 at 18-19.

not oppose BIE's recommendation that Columbia meet annually with BIE's Pipeline Safety Division for a status update on cost control efforts.

As the ALJ noted above, after the hearing record closed in this proceeding, the Commission finished its periodic review of Columbia Gas' LTIIP and on November 19, 2020, on page 6 of its Opinion and Order at Docket No. M-2020-3019723, the Commission found the Company's "level of spending is 8.3% ($42 million) less than the levels projected in Columbia's LTIIP. Columbia replaced nearly the amount of main planned, while spending approximately 8% less than planned, based on original estimates. Therefore, the company appears to be on track to meet its current LTIIP and long-term goals in a cost-effective manner."

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends there is no need for a revision in this proceeding but, based on the agreement of Columbia Gas and BIE, recommends Columbia Gas meet annually with BIE's Pipeline Safety Division to provide a status update on cost control efforts.

i. Risk Reduction

Columbia Gas opposed as premature BIE's recommendation that Columbia Gas undertake a formal root cause analysis to determine why total leaks found have increased by 8.5% from 2017-2019, in the context of its ongoing replacement of at-risk pipe. Columbia Gas argued a formal root cause analysis is premature because: (1) leaks found have decreased 15.6% from 2015-2019; (2) leaks do not reduce in lock step with pipe replacement, as remaining pipe ages and becomes more susceptible to leaking; (3) Columbia increased pipes surveyed annually by 13.8% from 2017 through 2019 which can contribute to discovery of the 8.5% higher leaks found during that period of time; and (4) additional data can determine if this is a potential problem or a short-term phenomenon.

BIE acknowledged Columbia Gas reduced its open grade 2 leaks by 64.14% from 2015 to 2019, when the Company had 937 open grade 2 leaks in 2015 and 336 open grade 2

leaks in 2019.[418] However, BIE pointed out that, from 2017 to 2019, other risk indicators have risen thus outweighing the Company's risk reduction efforts. These risk indicators include the number of newly found leaks, excavation damages per thousand tickets, poor record related damages, non-reportable incidents due to poor records, and failures of field-assembled risers on Columbia-owned service lines.[419] BIE recommended Columbia Gas perform a root cause analysis[420] due to the increase in other risk indicators and determine why the number of leaks found does not correlate with the amount of pipeline replacement for the past four years. BIE also recommended Columbia should present the results of the said analysis to BIE Pipeline Safety, which should include any corrective actions the Company takes, no later than September 30, 2021. Additionally, BIE recommended the Company continue its leakage reduction program.[421]

The ALJ agrees a root cause analysis will help the Company to determine whether it targets the right segments during replacement projects. Columbia Gas has already performed its own risk assessment in accordance with DIMP, but, a root cause analysis is generally accepted in the industry and provides the amount of detail necessary to pinpoint the exact cause or causes of leakage increases.[422] The root cause analysis would be helpful for the Company, as would updating its records on and completing inspections on all field-assembled risers, which BIE contended had failed. The ALJ agrees with BIE that the Company should know the location and condition of these field-assembled risers, including those on customer-owned service lines.

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418 I&E St. No. 5 at 6.

419 I&E St. No. 5 at 6.

420 I&E witness Apetoh explained which type of root cause analysis is requested of the Company in his surrebuttal testimony. He explained the objective of a root cause analysis is to determine the most fundamental reason for an incident or condition which, if removed, will prevent recurrence or minimize the risk of the incident or condition. Additionally, there are several root cause analysis techniques. A systematic root cause analysis, which is the one referred to in this case, is an analytical technique or method used to perform two primary functions. These functions include organizing data into patterns to help determine root causes and generating questions for inquiry. There are six key attributes in a root cause analysis including: (1) Thoroughness; (2) Fairness; (3) Efficiency; (4) People, plant, and procedures; (5) Safety precedence sequence; and (6) Overt management support. I&E St. No. 5-SR at 8.

421 I&E St. No. 5 at 12-13.

422 I&E St. No. 5-SR at 9-10.

The ALJ notes BIE made these suggestions, and Columbia Gas agreed to identify and develop a plan to replace field assembled risers, and to complete updating of maps and records as quickly as possible and to keep BIE's Pipeline Safety apprised of its progress.[423]

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission should require Columbia Gas to present the results of its root cause analysis to BIE's Pipeline Safety, which should include any corrective actions the Company takes, no later than September 30, 2021. In addition, the ALJ recommends Columbia Gas should update its records on and complete inspections on all field-assembled risers, including those on customer-owned service lines, develop a plan to replace field-assembled risers, and complete updating its maps and records as quickly as possible and to keep BIE's Pipeline Safety apprised of its progress.

J. Parties' Briefing Positions Concerning Rate Structure

1. Columbia Gas' Position

a. Introduction

Columbia contends its rate design proposal is designed to recover the total cost of service. In designing its proposed rates, the Company pursued three objectives to establish the amount of revenue to be recovered through the customer charge: (1) Columbia sought to align the percentage of customer charge recovery to total base rate recovery; (2) Columbia sought to progress toward a customer charge to recover the cost of a minimum system by comparing the current customer charge to the Minimum System Customer Charge Study (Columbia Exhibit No. 111, Schedule 1 at 14-18); and (3) Columbia proposed any increase in the customer charge should be gradual to avoid rate shock (Columbia St. No. 3-R at 14). The Company suggests the Commission should approve of its proposed revenue allocation and rate design.

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[423] Columbia St. No. 7-R at 15.

b. Cost of Service

i. Allocated Cost of Service Studies

Columbia contended the results of its Average Study should be used to guide revenue allocation and explained there was much variation between and among the parties concerning the most appropriate cost of service study. Columbia argued OCA's and BIE's proposed cost of service studies and their oppositions to the Company's Average Study are without merit and should be rejected.

a) The Commission has not selected one Cost of Service Study as the Required Study

Initially, Columbia notes the Commission's decisions cited by BIE and OCA do not support their preference for the Peak & Average Study. While BIE and OCA cited to the Commission's rejection of the Customer-Demand Study in *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-00061931, 2007 Pa. PUC Lexis 46 (Order entered September 28, 2007), Columbia contends the Commission more recently accepted the use of the Customer-Demand methodology in *Pa. Pub. Util. Comm'n v. PPL Electric Utilities Corp*., Docket No. R-2012-2290597 at 113 (Order entered December 28, 2012) *citing Pa. Pub. Util. Comm'n v. PPL Electric Utilities Corp*., Docket No. R-2010-2161694 at 46 (Order entered December 21, 2010).

Columbia acknowledges BIE's citation to *Pa. Pub. Util. Comm'n v. National Fuel Gas Distribution Co.,* 83 Pa. PUC 262, 1994 Pa. PUC LEXIS 134 (1994) (*National Fuel*), wherein the Commission accepted the Peak & Average Study; however, the Company distinguishes the decision in *National Fuel* from the present case. Columbia asserts that in *National Fuel*, the utility presented two slightly different versions of the Peak & Average Study, so the Commission was not presented with an option to select a cost of service study that included a customer component. Here, unlike in *National Fuel*, Columbia contends it presented both a Peak & Average Study and a Customer-Demand Study, as well as a third study which

averages the other two studies. The Company argues the Commission's decision in *National Fuel* is of minimal relevance to this base rate proceeding and the Commission must review each proposed revenue allocation considering the facts specific to that case. Here, Columbia contends it demonstrated the Company's Average Study is the most appropriate basis upon which to allocate revenue.

Columbia acknowledges the Commission has not expressly accepted one cost of service study as controlling, nor has the Commission specifically rejected the use of a particular cost of service study. Rather, Columbia argues the Commission recognized that cost allocation studies require considerable judgment and are not an exact science.[424] There is no one "right" cost of service study, and the proper method to allocate revenue must be examined on a case-by-case basis. The Company contends BIE admitted the Commission must examine the cost of service studies as presented in each case. I&E M.B., at 90. Columbia asserts the evidence presented demonstrates the Average Study with its equal weighting of the Customer-Demand Study and the Peak & Average Study represents a revenue allocation that most accurately reflects the cost of service, avoids cross-class subsidization to the extent possible, and is fair to all rate classes.

b) BIE's and OCA's preferences to rely solely on a Peak & Average Study are inappropriate and should be rejected

Columbia contends the Commission should not rely solely on the Peak & Average study, as proposed by BIE on the basis that throughput is a driver of mains cost and that the purpose of a natural gas distribution company, such as Columbia, is to deliver gas at all times, 365 days a year. I&E M.B., at 89. Columbia contends each of its customers have a unique cost that contributes to the total cost to serve the rate class in which those customers are included, with such distinctions in customer costs as: 1) the distance from the transmission main to the customer meter; 2) the design day capacity of the customer; 3) the age of the pipe; 4) the customer density on the distribution main; 5) the geographic location of the main (urban vs.

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[424] *Application of Metropolitan Edison Co.,* R-00974008 (Order dated June 30, 1998); *Pa. Pub. Util. Comm'n v. Pa. Power & Light Co.,* 55 PUR 4th 185 (Order dated Aug. 19, 1983).

rural); 6) the number of customers and capacity requirements downstream of the customer; and 7) the operating pressure of the main. Columbia argues customer throughput has no impact on the determination of the size, length, or cost of the distribution main serving the customer.

The Company contends customer throughput is simply a measurement of the utilization of the distribution main and as such is a factor in the customer's decision of selecting gas service. In other words, the availability of receiving gas 365 days a year is a reason the customer requests gas service and causes the gas distribution company to invest in the purchase and installation of gas mains but has nothing to do with Columbia's incurred cost of the pipe or the cost of installing the gas main to provide service to the customer. Columbia St. No. 11-R, at 6.

The Company contends the cost to install a main is based on several factors, including how far the system must be extended to connect the customer and the diameter of pipe required to meet the customer's peak demand. The cost to install the pipe would not change based on the customer's level of throughput, i.e. their usage throughout the year. Therefore, Columbia argues reliance solely on the Peak & Average Study places too much emphasis on the throughput component without recognizing the customer component as a driver of mains cost. Such an approach would not accurately reflect the Company's true cost of service.

Columbia notes OCA presented a Proportional Responsibility Study for comparison purposes, which method was used by a former Columbia affiliate before the Massachusetts Department of Public Utilities (DPU). The Company notes the Massachusetts DPU required the Proportional Responsibility Study be included in all Massachusetts natural gas distribution utility rate case filings and that requirement is not binding on the Pennsylvania Commission. Columbia Statement No. 11-R, at 28. Moreover, Columbia argues the results of the Proportional Responsibility study do not validate OCA's Peak & Average Study. Columbia explained the irrelevance of the Proportional Responsibility method to verify the Peak & Average Study as follows:

> The Peak & Average method uses 50% weighting based on throughput and 50% weighting based on design day demand. The

> Proportional Responsibility method is based on monthly throughput throughout the year with a weighting from lowest usage months toward highest usage months to account for deign day usage. It is no wonder that an allocation of mains based on average throughput and design day usage would produce similar results to an allocation of mains based solely on monthly throughput weighted to account for design day usage.

Columbia St. No. 11-R at 27.

c) OCA's criticisms of the Customer-Demand Study are without merit and should be rejected

The Company contends all of OCA's various arguments against the Customer-Demand Study are without merit and should be rejected. OCA cites to Professor James Bonbright in *Principles of Public Utility Rates* in support of its position that it is improper to allocate a portion of mains on the basis of being customer related. OCA M.B., at 144. However, the Company argues Professor Bonbright accepted it is appropriate to recognize a customer component of distribution mains for cost allocation when he states, "a material part of the operating and capital costs of a utility business is more directly and closely related to the number of customers than to energy consumption on the one hand or maximum kilowatt demand on the other." *Principles of Public Utility Rates*, at 400-01. Citing to Professor Bonbright, Columbia argues customer costs are those costs incurred to serve a customer even if the customer does not use the service and include such costs as "expenses associated with local connection facilities, metering equipment and meter reading, billing and accounting, <u>and a portion of the distribution system</u>." Columbia St. No. 11-R, at 13-14 (emphasis added).[425]

Columbia disputes OCA's hypothetical example to show the number of customers to be served will not impact mains investment. OCA M.B., at 140-41. Columbia asserts OCA is only partly correct. The Company argues the amount of mains investment made by the company depends on the cost to extend the main to the new customer, the cost of the capacity required by

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[425] Columbia also notes in its Main Brief at pages 132-33, there are other recognized authorities who agree that it is proper to include a customer component in the distribution mains allocation. *See The Regulation of Public Utilities*, Charles F. Phillips, Jr., Public Utility Reports, 1984; *Gas Rate Fundamentals*, Fourth Edition, American Gas Association, 1987.

the new customer, and the incremental revenue the new customer will provide to recover, over time, the incremental cost and a contribution toward overhead and return. Columbia acknowledges OCA uses peak demand and Columbia agrees peak demand is a causation of cost. For that reason, Columbia uses peak demand (design day demand) in all three of its allocated cost of service studies because peak demand determines the diameter of the main, and in the Customer/Demand Study, it is the demand component. Columbia St. No. 11-R, at 10-12. The Company explains it objection to OCA's hypothetical, as follows:

> In Mr. Mierzwa's example, he assumes that both streets are one block long. I, in turn, assume he intended to infer that the capital investment on both streets was the same. Under the Company's line extension policy there must be enough incremental revenue from the new customers to provide recovery, over time, of the incremental cost and a contribution toward overhead and return. Using current rates, the street with 1 commercial customer will contribute toward revenue $66.90 [(10 Dth x $4.415/Dth) + ($22.75 customer charge x 1 customer)]. The street with the 10 residential customers will contribute toward revenue $228.26 [(10 Dth x $6.076/Dth) + ($16.75 customer charge x 10 customers)]. Consequently because the commercial customer only contributes $66.90 toward the recovery of the mains investment and the 10 residential customers contribute $228.26, the commercial customer would likely be required to make a contribution in aid of construction ("CIAC") toward the mains investment on its street where there would be no requirement of a CIAC for the 10 residential customers. So under this example, the mains investment made by the Company for the 1 commercial customer is significantly less than the mains investment made by the Company for the 10 residential customers because the commercial customer would most probably be required to pay a CIAC to compensate for the amount of the Company's mains investment.[426]

Columbia contends it refuted OCA's contention Residential customers should be entitled to a credit for their demands that can be met by the minimum system because the proportionate share of demands being met by the minimum system for Residential customers is greater than that of other rate classes. OCA M.B., at 143-44. *See* Columbia M.B., at 133-34.

426 Columbia St. No. 11-R at 10-12.

Columbia argues OCA's claims - that Columbia's position in this case is inconsistent with the Company's analysis in a base rate case from five years ago in which a Company witness determined that the minimum system was capable of meeting most Residential customers' demand – takes the testimony out of context. Columbia argues its witness in 2015 meant most Residential customers' demand can be met with the minimum system is that the cost to serve a Residential customer remains relatively the same regardless of usage.[427] Thus, the prior testimony had nothing to do with whether larger upstream facilities benefit the Residential class.

Columbia argues, without the larger upstream facilities, it would not be possible to serve the Residential customers by delivering gas to the lower pressure system further downstream. Therefore, the Company contends OCA's claim that Residential customers should not share in the costs of these larger facilities is contrary to the fundamental cost of service principles articulated in *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010, 1020 (Pa.Cmwlth. 2006) *app. den.*, 591 Pa. 676, 916 A.2d 1104 (2007).

Finally, with respect to the allocation of mains' cost, Columbia notes OCA is the only party that challenged its proposed separation of mains by pressure group. Columbia points out BIE, CII, OSBA and PSU expressed support for Columbia's assignment of mains to separate pressure groups because doing so more accurately identifies the mains being used to serve specific customers, and, in turn, more accurately assigns mains when determining revenue responsibility for each rate class. The Company contends OCA's criticisms of Columbia's proposed allocation of mains cost should be rejected.

ii. Customer Charge Studies

Columbia asserts it presented a customer charge study excluding the cost of mains but disagrees with BIE that a customer component of mains should not be included in the customer charge study. BIE had contended Columbia's customer cost analysis that includes mains cost should be rejected because it is contrary to the Commission's directive in prior cases. BIE M.B., at 94-95. Columbia notes BIE's position on the customer cost analysis is irrelevant

[427] July 15, 2015 Rebuttal Testimony of Mark Balmert at Docket No. R-2015-2468056, pages 31-32.

for purposes of determining the Residential customer charge because Columbia's proposed Residential customer charge is supported by the customer charge study excluding mains. In fact, the Company notes BIE stated it agrees with the Company's proposed Residential customer charge. BIE M.B., at 101.

c. Revenue Allocation

i. Proposed Revenue Allocation and Alternatives

The Company asserts it selected the Average ACOS study to guide the revenue allocation and rate design process, while using all three ACOS studies to evaluate the reasonableness of the proposed revenue allocation. Columbia St. No. 3, at 31. Columbia made certain adjustments to the revenue allocation based upon the initial results of the Average ACOS study. The results of the ACOS study indicated that four rate classes – SGS-1/SGDS-1, SGS-2/SGDS-2, SDS/LGSS and MLDS – are overcontributing compared to the rate of return earned on rate base and three rate classes – RD, LDS and Flex – are under contributing. Columbia Exhibit No. 111, Schedule 3, at 1, ln. 13. The following table shows the unitized return results for the classes at present rates:

Unitized Return at Present Rates

RS/RDS	SGS/DS-1	SGS/DS-2	SDS/LGSS	LDS/LGSS	MLDS	Flex
4.734%	5.045%	8.703%	8.349%	4.051%	81.361%	-3.272%
0.97	1.04	1.79	1.72	0.83	16.75	(0.67)

Columbia shifted revenue between the classes in an effort to move each class toward the system average. This resulted in an additional $468,497 being reallocated to the Residential class, which was capped at the system average. An additional $313,389 was reallocated to the LDS class. Columbia St. No. 3, at 32.

Columbia contends the LDS class remains below the system average rate of return using the Average cost of service study as a guide even with the additional revenue allocation.

This is a result of Columbia's efforts to strike a balance between the competing rate design goals of fairness and gradualism. Columbia St. No. 3, at 34-25. Columbia argues the LDS class is overcontributing under the Customer-Demand study. Columbia Exhibit No. 111, Schedule 1.

Columbia proposes that certain customer groups do not receive a revenue increase. The Company contends MLDS customers cover more than their allocated share of the revenue requirement at present rates under all three ACOS studies. Therefore, Columbia proposes to shift the revenue increase for the MLDS class to the Residential and LDS classes. Columbia St. No. 2, at 32. The Company proposes not to assign any increase to Flex customers other than what would be collected through the increased customer charge. Columbia St. No. 3, at 33.[428] Columbia asserts Flex customers receive negotiated rates to maximize the revenues that can be obtained from these customers with competitive alternatives, in lieu of losing the customers entirely. In addition, the Company proposes that the revenue increment assigned to CAP customers who will not receive an increase in their required payment amount continue to be collected from other Residential customers through Rider USP. Columbia St. No. 3, at 35. Columbia's proposed revenue allocation represents a fair allocation of the proposed revenue increase among the customer classes considering the range of outcomes produced by the ACOS studies and should be accepted.

Columbia's proposed revenue allocation proposal is set forth below and on page 138 of its Main Brief:

Columbia's Final Revenue Allocation Proposal of Revenue Requirement

RS/RDS	SGS/DS-1	SGS/DS-2	SDS/LGSS	LDS/LGSS	MLDS	Flex
$73,989,928	$8,615,322	$9,889,590	$5,722,321	$4,167,686	$0	$14,117
72.27%	8.41%	9.66%	5.59%	4.07%	0.0%	0.01%

[428] The flexible rate provisions of Columbia's tariff provide that the customer charge is not eligible for adjustment. *See* Supplement No. 221 to Tariff Gas – Pa. PUC No. 9, Sixth Revised Sheet No. 68.

Columbia contends the foregoing allocation reflects a proposed rate increase of $100.4 million. To the extent the allowed increase is less than that proposed by Columbia, Columbia proposes to use its revenue allocation and rate design to scale back rates proportionally. Columbia St. No. 3-R, at 16.

Columbia notes PSU supports Columbia's proposed revenue allocation based on the Average Study (PSU M.B., at 14) but opposes the alternatives proposed by OSBA and OCA (OSBA M.B., at 18; OCA St. No. 4, at 35); BIE (I&E St. No. 3, at 16); and CII (CII St. No. 1, at 9). The Company argues, contrary to OSBA's position, its proposed revenue allocation for all classes is consistent with the results of the Average Study and explains how it developed its proposed revenue allocation, beginning with the results of the Average Study. Columbia St. No. 3, at 31-33. Columbia notes, according to the Average Study, the initial allocation of revenue to the rate classes was as follows:

Columbia's Initial Revenue Allocation Proposal of Revenue Requirement

RS/RDS	SGS/DS-1	SGS/DS-2	SDS/LGSS	LDS/LGSS	MLDS	Flex
$73,521,431	$8,465,322	$9,714,590	$5,477,321	$3,854,297	$138,239	$1,227,764
72.99%	8.27%	9.49%	5.35%	3.76%	0.14%	1.20%

Columbia St. No. 3, at 32. The Company then reallocated revenue among the classes to bring each class closer to the system average rate of return. Columbia St. No. 3, at 32-33. In addition, any revenue increase to flex customers above what would be collected through the increased customer charges to these customers was shifted to all rate classes. This resulted in Columbia's final proposed revenue allocation which is shown in the table below.

Columbia's Final Revenue Allocation Proposal of Revenue Requirement						
RS/RDS	SGS/DS-1	SGS/DS-2	SDS/LGSS	LDS/LGSS	MLDS	Flex
$73,989,928	$8,615,322	$9,889,590	$5,722,321	$4,167,686	$0	$14,117
72.27%	8.41%	9.66%	5.59%	4.07%	0.0%	0.01%

Columbia St. No. 3, at 33.

Columbia argues that simply because the final revenue allocation proposal and the results of the Average Study do not match exactly does not mean that the proposed revenue allocation is inconsistent with the cost of service analysis. As the Commission has recognized, "[r]arely, if ever, is revenue requirement allocated strictly on the basis of cost-of-service results." *Pa. Pub. Util. Comm'n v. Duquesne Light Co.*, Docket No. R-821945, 57 Pa. PUC 1, 61 (1983). Columbia's proposed revenue allocation is consistent with the results of the Average Study, while also considering the principles of fairness and gradualism.

ii. Flex Customers

The Company notes it may, under certain competitive conditions, negotiate discounts from the regular tariff rate in order to retain customers who have lower cost options (e.g., alternative fuel, pipeline bypass and natural gas distribution utilities with overlapping service territories). Columbia asserts the rates are lowered only to the extent necessary to meet the demonstrated competitive alternative. *See* Supplement No. 221 to Tariff Gas – Pa. PUC No. 9, Sixth Revised Sheet No. 68. The Company argues Flex rate agreements benefit Columbia's non-flex customers because revenue collected from Flex rate customers contributes to the recovery of the Company's fixed costs. Absent Flex rates, the Company may lose these customers to alternatives. Without the revenues from Flex rate customers, the Company's non-Flex customers would be assigned additional fixed cost recovery responsibility and their rates would increase. Columbia St. No. 3, at 34.

a) OSBA's Proposed Revenue Allocation Should be Rejected

Columbia points out OSBA did not recognize in its revenue allocation proposal a portion of the revenue increase that cannot be assigned to Flex customers based on its unsupported assumption that certain of Columbia's Flex rates are not justified. OSBA M.B., at 20. Columbia notes no other party challenged its Flex rate discounts. Columbia argues OSBA offers no real argument in support of its treatment of Flex rate revenues.

The Company argues its Flex rates are fully supported by the required customer certification and the competitive alternative analysis that is conducted at the time the Flex rate agreements are entered. Columbia M.B., at 141-45. Therefore, Columbia contends OSBA's revenue allocation proposal should be rejected because it fails to reflect the amount of revenue increase that cannot be allocated to flex rate customers.

b) BIE's Request for a Competitive Alternative Analysis Should be Rejected

The Company notes BIE want Columbia to provide an update to the competitive alternative analysis for any customer who has not had their alternative fuel source verified for a period of ten years or more when Columbia files its next base rate case. I&E M.B., at 96. Columbia argues BIE's recommendation is not a prudent use of resources and should be rejected because BIE fails to recognize that Columbia cannot avoid its contractual obligations without consequence if circumstances change. Columbia contends it would be poor practice if Columbia broke an agreement with a flex rate customer based on new information becoming available. Not only would Columbia be exposing itself to potential damages for breach of contract, there would be little incentive for competitive customers to enter such agreements in the future if the Company could simply choose to no longer honor the agreement at any time. Such a scenario is not in Columbia's customers' best interests. Columbia argues even if it discovered a flex rate was no longer justified due to a change in competitive alternatives, Columbia could not violate the contract by no longer offering the flex rate. Thus, to conduct a competitive alternative analysis for a contract that is not up for renegotiation would not be a prudent use of resources.

Moreover, the Company contends the terms of its flex agreements typically do not extend beyond ten years, at which time competitive alternatives would be verified as part of the normal renegotiation process. Columbia St. No. 1-R Redacted, at 62. If circumstances have changed and the flex rate is no longer justified, the best course of action is for Columbia to review the competitive alternatives at the time that the flex rate contract expires and no longer offer the flex rate. Columbia argues it diligently reviews the competitive alternatives for each customer before reentering a flex rate agreement and will not enter a new agreement if the competitive circumstances do warrant a flex rate. Columbia's current practice is working well as demonstrated by its unwillingness to continue offering a flex rate to Knouse Foods upon expiration of its flex rate contract. Columbia St. No. 1-R Redacted, at 65.

Columbia contends it should be permitted to continue its current practice of reviewing competitive alternatives based on when flex rate contracts are set to expire rather than based on an arbitrary timeframe as BIE suggests.

iii. Allocation of Universal Service Costs

OCA and CAUSE-PA recommend the costs of the Company's Universal Service Programs (USP) be borne by all ratepayers, not just the Residential class. OCA St. No. 5, at 57; CAUSE-PA St. No. 1, at 83-43. CII, PSU, OSBA and Columbia oppose allocating USP costs outside of the Residential class. CII St. No. 1-R, at 2; PSU St. No. 1-R, at 16, 29; OSBA St. No. 1-R, at 6; Columbia St. No. 1-R, at 23. The Company contends the Commission previously held, and the Commonwealth Court affirmed, that USP costs should not be allocated outside of the Residential class.[429] Columbia argues OCA's and CAUSE-PA's proposal should be rejected.

Columbia does not support its C&I customers paying for USP. Columbia points out only Residential customers are eligible to participate in USP, programs created to reduce Residential customer arrearages and, in turn, reduce the costs incurred by Residential ratepayers

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[429] *See Metropolitan Edison Co. and Pa. Electric Co.*, Docket Nos. R-00061366 and R-00061367, *aff'd Met-Ed Indus. Users Group v. Pa. Pub. Util. Comm'n*, 960 A.2d 189 (Pa.Cmwlth. 2008) (upholding the Commission's decision to limit recovery of universal service costs to Residential customers).

as a result of arrearages and collections. The Company asserts the Residential class is the class that benefits from the reduction in such arrearages and collection costs, and the Company argues the Residential class should be the customer class that bears the costs of these programs. Columbia contends its C&I customers do not cause it 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 St. No. 1-R, at 25.

Columbia argues OCA's and CAUSE-PA's proposals would impose an obligation on the C&I customers that is not placed on the C&I customers of other utilities in Pennsylvania. Columbia St. No. 1-R, at 23. In Pennsylvania, most Residential customers pay the costs of USP, and singling out Columbia's C&I customers would be inappropriate, as other similar customers, including customers of Columbia's competitors, are not required to pay for these programs. In this regard, Columbia contends OCA's and CAUSE-PA's proposals are discriminatory and violate the neutrality requirements in the Natural Gas and Competition Act, which prohibits unreasonable discrimination against one customer class for the benefit of another. *See* 66 Pa.C.S.A. § 2203(5). Moreover, requiring only Columbia's large C&I customers, and not the customers of other NGDCs, to contribute to the costs of these programs could prompt these customers to seek to bypass Columbia where they have the option to do so. C&I customers with existing flex rate contracts either will have the USP charges flexed or will receive a further discount to their distribution rate discounts. If the latter occurs, then the revenue allocation would have to account for this, or Columbia's rates will not recover the revenue allowance.

Columbia contends OCA's and CAUSE-PA's proposals fail to take into account that universal service costs are recovered pursuant to a reconciled recovery mechanism, Rider USP. Columbia St. No. 1-R, at24. The vast majority of these costs are either CAP discounts or pre-program arrearage forgiveness, the amounts of which are outside the Company's control. Neither OCA nor CAUSE-PA explained how the mechanism will be modified to account for class reconciliation of amounts to be recovered.

Columbia notes CAUSE-PA argues the Natural Gas Competition Act, 66 Pa.C.S.A. §§ 2201, *et seq.* (Competition Act) does not permit a rate class to bypass universal

service costs. As support for its argument, CAUSE-PA cites to 66 Pa.C.S.A. § 2203(6) and contends the word "nonbypassable" should be interpreted to mean no rate class can "bypass" universal service costs.

Columbia argues the Commission and the Commonwealth Court specifically rejected this interpretation in *Metro. Edison Co. and Pa. Electric Co.*, Docket Nos. R-00061366 and R-00061367, *aff'd Met-Ed Indus. Users Group v. Pa. Pub. Util. Comm'n*, 960 A.2d 189 (Pa.Cmwlth. 2008) (upholding the Commission's decision to limit recovery of universal service costs to Residential customers) (*Met-Ed Indus. Users Group*). In *Met-Ed Indus. Users Group,* the Commission provided the following interpretation of the word "nonbypassable" in the context of the Electricity Generation Customer Choice and Competition Act, 66 Pa.C.S.A. §§ 2801, *et seq.*, which the Commonwealth Court affirmed:

> In the context of a regulatory environment in which there is retail competition, a nonbypassable charge is one in which customers pay the charge whether they "shop" for generation supply or take service under [PLR] rates from an EDC. A nonbypassable charge would generally require that the charge be recovered in a rate that is paid by all customers in the class, both shopping and non-shopping. Such a charge does not imply an allocation scheme in which costs are assigned to all rate classes. Rather, in the context of the Competition Act, a nonbypassable charge means that universal service costs that were in the bundled rates for a particular customer class should remain within that class after rate unbundling. Specifically, if universal service costs were recovered only from residential customers prior to unbundling, **as they were**, then all residential customers should continue to pay these costs regardless of whether a residential customer begins shopping or does not shop.[430]

The Company argues the Commission made clear that a nonbypassable charge is one that must be paid by all customers of the *same* rate class whether they are shopping or non-shopping customers and, specifically, nonbypassable means Residential customers cannot avoid their pre-competition funding of universal service costs by choosing to shop.[431]

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430 *Met-Ed Indus. Users Group* at 201-02. (emphasis in original).

431 *Met-Ed Indus. Users Group* at 202.

Columbia contends CAUSE-PA's interpretation is inconsistent with the meaning of a nonbypassable charge and ignores the "competitively neutral" language in Section 2203(6), which makes clear the language is referring to shopping versus non-shopping customers, not customers in different rate classes. CAUSE-PA relies on *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010, 1020 (Pa.Cmwlth. 2006) *app. den.*, 916 A.2d 1104 (2007) ("*Lloyd*") as support for its argument, but Columbia notes the Commonwealth Court determined in *Met-Ed Indus. Users Group* that *Lloyd* is inapplicable in the context of universal service program costs.

Columbia argues CAUSE-PA and OCA ignore Section 2203(5) of the Competition Act, which prohibits unreasonable discrimination against one customer class for the benefit of another. *See* 66 Pa.C.S.A. § 2203(5), which provides:

> 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.

Columbia contends CAUSE-PA's and OCA's proposal violates Section 2203(5) of the Competition Act because it unreasonably discriminates against Columbia' C&I customers to the benefit of its Residential customers. Columbia asserts C&I customers receive no benefit from Columbia's universal service programs and are not eligible to participate in these programs. Residential customers receive all the benefits of Columbia's universal service programs. *See* Columbia M.B., at 147. Therefore, it would be unreasonable and discriminatory to require C&I customers to subsidize these Residential class programs from which C&I customers receive no benefit.

The Company argues OCA's suggestion - that universal service programs are a "public good" - does not justify allocating universal service program costs outside of the Residential class for ratemaking purposes. Columbia argues universal service programs were created to reduce overall costs for Residential ratepayers related to customer arrearages and customer collection costs by reducing Residential customer arrearages. C&I customers do not cause Columbia to incur any costs in relation to Residential customer arrearages and collections. Columbia St. No. 1-R, at 24-26. C&I customers also do not benefit from any reduction to

residential uncollectible expense or residential collection costs, as these are allocated to the Residential class in the allocated cost of service. Columbia St. No. 1-R, at 25. Columbia argues that, to allocate the costs of Residential universal service programs to other customer classes based on OCA's arbitrary "public good" theory, would be contrary to the ratemaking principle of cost causation. *See Lloyd*, 904 A.2d 1010, 1016-21. The Residential customer class should not be permitted to shift these costs to the C&I class.

Finally, CAUSE-PA criticizes Columbia for not addressing the issue of universal service cost recovery from classes other than the Residential class in its filing. First, Columbia notes the Commission's *Final CAP Policy Statement* Order does not direct utilities to propose cross-class allocation of universal service costs in their base rate filings, nor does it require these costs to be allocated outside of the Residential class.[432] Second, Columbia did, in fact, state in its filing that the Company continues to support its current practice of recovering universal service costs from its Residential customers.[433]

d. Rate Design

Columbia contends its rate design proposal is designed to recover the Company's total cost of service, and the Company pursued three objectives in designing its proposed rates to establish the amount of revenue to be recovered through the customer charge. First, Columbia analyzed the percent of revenue recovery by the customer charge, as compared to base rate revenue recovery as a whole, to align the percentage of customer charge recovery to total base rate recovery. Second, Columbia compared the currently approved customer charge to the Minimum System Customer Charge Study (Columbia Exhibit No. 111, Schedule 1, at 14-18), to better progress toward a customer charge that would recover the cost of a minimum system. Third, Columbia proposed any increase in the customer charge should be gradual to avoid rate shock Columbia St. No. 3-R, at 14.

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[432] *See 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa.Code § 69.261-69.267*, Docket No. M-2019-3012599 (Order entered November 5, 2019).

[433] *See* Columbia St. No. 3 at 35.

i. Residential Rate Design

Columbia notes its current Residential rate structure includes a customer charge, a volumetric charge and a Weather Normalization Adjustment (Rider WNA). Columbia St. No. 3, at 15. Columbia proposes to increase the Residential customer charge, recover the remaining revenue allocated to the Residential customer class through the commodity (distribution) charge, modify the currently effective WNA and implement a Revenue Normalization Adjustment (Rider RNA).

a) Residential Customer Charge

The Company proposes to increase the Residential customer charge from $16.75 to $23.00 and notes its proposal is supported by BIE. OCA, CAUSE-PA and CAAP raised various arguments in opposition to the Company's proposal to increase the customer charge, including various concerns with respect to the impacts of the proposed customer charge on low-income customers.

i) The "No Increase" Proposals of OCA, CAAP and CAUSE-PA Should be Rejected.

OCA, CAAP, and CAUSE-PA argue the Residential customer charge should not increase. The Company contends these "no increase" proposals are not based on any cost analysis but rather upon their belief that the fixed portion of a Residential customers' bills should not increase. Columbia argues such an extreme stance has no basis in cost causation principles and has been previously rejected by the Commission.[434] Similarly, Columbia contends these "no increase" proposals should be rejected here.

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[434] *See Pa. Pub. Util. Comm'n v. PPL Electric Utilities Corp.,* Docket No. R-2012-2290597, 2012 Pa. PUC LEXIS 1757 (October 19, 2010 R.D.; Order entered December 28, 2012) (rejecting I&E's and OCA's position of "no increase" to the customer charge because it was not based on a proper cost analysis) *citing Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.,* Docket No. R-00038805, 2004 Pa. PUC LEXIS 39, 236 P.U.R.4th 218 (August 5, 2004).

ii) Columbia's Proposed Increase to the Residential Customer Charge Does Not Violate the Principle of Gradualism.

OCA contends Columbia's proposed increase to the customer charge from $16.75 to $23.00 violates the principles of gradualism but Columbia argues OCA ignored controlling precedent by attempting to advance gradualism considerations ahead of the cost to serve the Residential class.[435] Thus, Columbia contends gradualism concerns should not override the cost of service in evaluating Columbia's proposed customer charge.

Columbia asserts the proposed increase in the Residential customer charge is supported by the results of Columbia's customer charge study that excludes mains (Columbia Exhibit No. 111, Schedule 1, at 25) which proposal is consistent with the Commonwealth Court's decision in *Lloyd, supra*,[436] which held that rate structures should be adjusted to reflect the cost of service to each rate class and to eliminate cross-subsidization. Columbia argues its proposed increase to the Residential customer charge is necessary to bring the Residential customer charge in line with the cost of service and eliminate cross-subsidization from other classes, as required by *Lloyd*, and should be approved. Columbia also contends OCA failed to consider the last time the Company's Residential customer charge was increased was in 2012.[437] The Company argues a $6.25 increase in the customer charge is gradual considering the customer charge has remained the same for the past eight years. OCA's gradualism concern does not justify its "no increase" position and should be rejected.

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[435] *See Lloyd*, 904 A.2d 1010, 1020-21 (factors such as gradualism are not permitted to trump cost of service as the primary basis for allocating the revenue increase).

[436] At 904 A.2d 1010, 1020.

[437] *Pa. Publ. Util. Comm'n v. Columbia Gas of Pa., Inc.,* Docket No. R-2012-2321748 (R.D. April 4, 2013 at 29; Order entered May 23, 2013).

iii) Columbia's Proposed Increase to the Residential Customer Charge Will Not Negatively Impact Low-Income Customers' Ability to Reduce Their Bills Through Conservation.

CAUSE-PA argues that increasing the Residential customer charge will undermine LIURP because LIURP customers will not be as effective at lowering their bill through conservation efforts if the fixed portion of their bill increases. CAUSE-PA M.B., at 38. Similarly, OCA claims that low-income customers will not realize the effects of conservation on their bills if the customer charge is increased. OCA M.B., at 190. Columbia argues both assertions - that customers will not be able to effectively lower their bills through conservation - is simply inaccurate. *See* Columbia M.B., at 152-53.

Columbia contends that, at proposed rates, the Residential customer charge of $23.00 represents approximately 21.9% of the total monthly bill of a typical Residential customer. Even with the $23.00 customer charge, the majority of a customer's bill will continue to be made up of volumetric charges, including the recovery of commodity costs. Therefore, customers, including those participating in LIURP, will be able to realize savings on their bills through conservation efforts. Columbia St. No. 3-R, at 19-20.

iv) OCA's Concerns that Low-Income Customers Will Not Be Protected From the Proposed Customer Charge Increase are Without Merit.

OCA contends low-income customers will not be adequately protected from the increased customer charge, but Columbia contends these concerns are not a valid reason to avoid increasing the customer charge for all customers. Columbia contends there are programs in place that will adequately protect low-income customers should they become unable to afford their utility bill. In addition, Columbia argues that OCA advocates for a customer charge for the Residential class that is insufficient to support the cost of service based on its position that some low-income customers may not be able to afford their utility bills with the rate increase. OCA ignores the many Residential customers who are not struggling to pay their utility bill. Columbia submits that the more appropriate approach is to set the Residential customer charge based on the

cost of service and provide assistance to those customers in need through the proper low-income programs.

In an attempt to support its argument, OCA makes a comparison between what it believes to be the annual total dollar amount of increased customer charges paid by all low-income customers and the total amount of LIHEAP cash grants received by Columbia's customers. Columbia argues OCA's comparison is flawed and provides no support for its position.

First, comparing the total amount of LIHEAP cash grants received by Columbia's low-income customers to the fixed portion of a low-income customer's bill is a meaningless comparison. LIHEAP is a federal program that helps eligible households maintain utility service during winter months in the form of a cash grant. LIHEAP is just one option to Columbia's low-income customers and is intended to work in conjunction with Columbia's many other low-income programs, such as the Customer Assistance Program (CAP). Columbia Statement No. 13-R, at 16-17. Thus, Columbia's low-income customers receive assistance not only from LIHEAP but from these other programs as well. To say that the total amount of LIHEAP cash grants is less than the increased customer charges to low-income customers fails to take into consideration the many other forms of assistance available to low-income customers.

Second, OCA vastly overstates the amount of increased customer charges that will be paid by low-income customers. OCA determined that increasing the customer charge by $6.25 per month would result in a total annual increase in the customer charge of $75.00 ($6.25/month x 12 months). OCA then multiplied the total number of estimated low-income customers in Columbia's service territory (101,375) by an annual increase in the customer charge of $75 per year to arrive at a total increase in annual customer charges for low-income customers of $7.6 million. OCA M.B., at 192-93. OCA's calculation is flawed because it incorrectly assumes that all of Columbia's low-income customers will pay the full amount of the customer charge increase. To the contrary, many of Columbia's low-income customers are enrolled in CAP, which offers budget billing that is based on the customer's ability to pay rather than the total bill amount. Columbia Statement No. 13-R, at 9-10. Thus, many of Columbia's low-

income customers will not pay the full amount of any bill increase. For those low-income customers who are eligible but not currently enrolled in CAP, they may enroll in CAP at any time should their bill become unaffordable.

Columbia contends OCA is incorrect to state the Company did not address claims that low-income customers are generally low-use customers who benefit from lower fixed charges. OCA M.B., at 194. Columbia claims it refuted the claim both in testimony and in its Main Brief at pages 152-53. Columbia explained not all low-income customers have low usage. Columbia St. No. 3-R, at 28-29. Therefore, OCA's conclusion regarding low-income customers is incorrect. Regardless of income status, a higher fixed component of the bill will benefit customers who consume more gas than the average.

b) Weather Normalization Adjustment

Columbia proposes to remove the 3% deadband from the Weather Normalization Adjustment (WNA). Columbia M.B., at 153-56. Columbia notes BIE and OCA opposed Columbia's proposal but Columbia argues BIE's and OCA's arguments for maintaining the 3% deadband are without merit and should be rejected.

Columbia submits that normal weather levels occur when the actual heating degree days for a month equal the normal heating degree days for that month as determined by twenty years of historical data. To be most effective, the WNA should apply anytime that weather for a given month is warmer or colder than normal. Placing an arbitrary percentage cap on when the WNA applies undermines the purpose of the WNA, which is to eliminate revenue and bill variations due to fluctuations in weather, not just account for extreme weather conditions. Columbia St. No. 3-R, at 4.

The Company argues BIE failed to recognize that the degree of temperature variation determines the amount of the adjustment when BIE claimed that if weather is only slightly warmer or colder than normal, the impact on the Company and customers should be insignificant and, for that reason, eliminating the 3% deadband is not necessary. If temperatures

are only slightly warmer or colder than normal, the corresponding bill adjustment would be smaller to reflect that smaller variation from normal temperatures, and Columbia contends this is not a valid reason to maintain the deadband. Moreover, the Company argues the WNA only applies during the heating season (November through May), and the effects of even smaller changes from normal can be significant.

The Company disagrees with OCA's claims that eliminating the 3% deadband would be "unfair" to customers. Columbia contends the WNA is not one-sided and will lower customers' bills when the temperatures are colder than normal and bill more to customers when temperatures are warmer than normal. Columbia asserts its experience with the WNA demonstrate that both the Company and customers benefit from the revenue and bill stabilization provided by the WNA. Columbia St. No. 3, at 18. Customers will continue to benefit from the WNA if the deadband is removed. To illustrate, if actual temperatures were 2.5% colder than normal during the peak winter billing months of January through March, an average residential customer would pay over $8 more in bills than they would if no deadband were in place. Columbia St. No. 3-R, at 5-7. Calculated across Columbia's approximately 400,000 residential customers, the Company argues this approximates $3.2 million in revenues that would be returned to customers if the deadband were eliminated. Columbia St. No. 3-R, at 5-7. Eliminating the 3% deadband is in the best interest of Columbia and its customers because it will continue to insulate Columbia and its customers from fluctuations in temperatures but in a more accurate manner than the WNA with the 3% deadband.

c) Revenue Normalization Adjustment

Columbia proposes to implement Rider RNA which provides benchmark distribution revenue levels regardless of changes in customers' actual usage levels. Rider RNA would adjust actual non-gas distribution revenue for the non-CAP Residential customer class. Columbia contends the proposed RNA is designed to promote revenue stability by "breaking the link" between Residential non-gas revenue received by the Company and gas consumed by non-CAP Residential customers. Columbia St. No. 3, at 20. Columbia cites to Act 58 of 2018, which amended the Public Utility Code by providing the Commission with express statutory authority

to approve alternative rate mechanisms, such as revenue decoupling, in a utility's base rate proceeding. *See* 66 Pa.C.S.A. § 1330(b). The RNA is a "decoupling mechanism" which is defined by Section 1330 of the Code as a rate mechanism that "reconciles authorized distribution rates or revenues for differences between the projected sales used to set rates and actual sales, which may Include, but not be limited to, adjustments resulting from fluctuations in the number of customers served and other adjustments deemed appropriate by the commission." 66 Pa.C.S.A. § 1330(b).

Columbia cites a Commission Policy Statement which invites utilities within the context of a base rate proceeding to propose ratemaking mechanisms and rate designs that further the policy objective of promoting the efficient use of energy.[438] The Commission's Policy Statement sets forth fourteen factors the Commission will consider when evaluating alternative ratemaking proposals. Although the Commission's Policy Statement is not mandatory,[439] Columbia asserts it considered each of the factors listed in the Policy Statement that are applicable to the Company's proposal to implement the RNA. These factors are explained in the direct testimony and rebuttal testimony of Columbia witness Bell. *See* Columbia St. No. 3, at 21; Columbia St. No. 3-R, at 23-25.

Columbia argues the RNA promotes revenue stabilization because it relies on distribution revenue per customer, not usage per customer. Once the Company's revenue requirement is set through a base rate proceeding, a benchmark revenue per residential customer is established. Because the link between level of throughput and base revenue recoveries is broken, reduced throughput will not lead to revenue and earnings erosion due to under-recovery. In this way, the RNA aligns the Company's and its customers' interests as they pertain to energy efficiency and conservation initiatives. Columbia St. No. 3-R, at 24.

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[438] *Fixed Utility Distribution Rates Policy Statement, Final Policy Statement Order*, Docket No. M-2015-2518883 (Order entered July 18, 2019).

[439] Policy Statements are not binding and do not have the force of law. *See Petition of Philadelphia Gas Works for a Statement of Policy on the Application of Philadelphia Gas Works' Cash Flow Ratemaking Method,* 2009 Pa. PUC LEXIS 2018, *20 (December 30, 2009) (policy statements are only an indication of how the PUC intends to proceed); *Pa. Associated Builders & Contrs., Inc. v. Pa. Dep't of Gen. Servs.*, 996 A.2d 576, 583 (Pa.Cmwlth. 2010); *R.M. v. Pennsylvania Hous. Fin. Agency*, 740 A.2d 302, 308 (Pa.Cmwlth. 1999).

Through Rider RNA, the Company would refund any amount over the benchmark revenue per Residential customer and would collect any amount below the benchmark revenue per customer Columbia St. No. 3, at 20. By design, the Company cannot retain revenue in excess of the Benchmark Distribution Revenue per Bill (BDRB), which protects customers from being over-charged. The Company will submit two filings per year for the RNA mechanism, which can be reviewed by the Commission, similar to the process for the Company's PGC and Rider USP filings. Columbia St. No. 3-R, at 25. Columbia proposes to reconcile RNA collections or credits in the next corresponding Peak and Off-Peak RNA filing. Columbia St. No. 3, at 28-29. Columbia proposes to calculate Rider RNA and adjust non-CAP Residential customers' bills every six months based upon a comparison of benchmark distribution revenue to actual billed distribution revenue. Using these two periods minimizes rate fluctuations for customers and aligns Rider RNA rate changes with the gas cost rate changes. The RNA computed for the Peak Period will apply to the next Peak Period, and the RNA computed for the Off-Peak Period will apply to the next Off-Peak Period. Lagging the adjustment until the next corresponding time period moderates the impact of any adjustment because Peak Period adjustments are applied to Peak Period volumes. Columbia St. No. 3, at 21-22.

Columbia proposes to set the Peak and Off-Peak BDRD using weather normalized test year revenues for the FPFTY approved in this proceeding divided by the number of Residential bills for the applicable six-month period. For each period, the difference between the BDRB and the Actual Distribution Revenue per Bill (ADRB) would be multiplied by the actual number of non-CAP Residential bills to compute base revenues to be charged or refunded to non-CAP Residential customers.

The proposed BDRD levels would need to be revised for the final revenue requirement approved by the Commission. Columbia proposes that new BDRB levels be established with each base rate case filing. Columbia St. No. 3, at 22-23.

Columbia asserts the proposed RNA formula for the Peak Period is as follows:

Peak Period:[440] $RNAp = \frac{[ANBp \times (BDRBp - ADRBp)]^{441}}{FTp}$

i) I&E's and OCA's Claims that the RNA is Not Needed are Without Merit and Should Be Rejected.

Columbia notes BIE and OCA claim the RNA is not necessary because the Company can use other mechanisms to provide revenue stability, such as the FPFTY, DSIC, WNA, purchased gas adjustment mechanism and a fixed customer charge. Columbia contends none of these mechanisms serve the same purpose as the RNA. Columbia notes BIE claims that the RNA is unnecessary if Columbia uses a FPFTY because the Company can build into its revenue requirement an adjustment for revenue lost as a result of declining usage. The Company disagrees with BIE's suggestion that Columbia should simply take advantage of the FPFTY rather than implement the RNA because the suggestion implies the Company should file rate cases continually to adjust for declining usage. While many factors influence whether the Company files a rate case, without the RNA, the only way for the Company to recover revenue lost due to declining usage is through a rate case.

Columbia notes BIE and OCA suggest the DSIC can be used in place of the RNA. But it argues BIE and OCA fail to recognize the amount of the DSIC is capped at 5% of distribution revenues, which limits its usefulness for Columbia due to the Company's high rate of infrastructure replacement. Columbia St. No. 3-R, at 27. The DSIC capped at 5% is not a viable alternative to the RNA. Moreover, the DSIC only recovers new plant investment. The DSIC is not designed to adjust base rate revenues due to changes in customer usage.

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[440] Where **RNA** is the Revenue Normalization Adjustment for non-CAP residential customers for the applicable period. **BDRB** is the Benchmark Distribution Revenue per Bill for non-CAP residential customers for the applicable period. **ADRB** is the Actual Distribution Revenue per Bill for non-CAP residential customers for the applicable period. ADRB includes Rider WNA adjustments in the applicable months. **ANB** is the Actual Number of non-CAP residential Bills for the applicable period. ANB will be computed using a six-month average. **FT** is the Forecast Therms for residential non-CAP customers for the six-month period that the RNA will be applied. Columbia St. No. 3 at 26.

[441] The equation is the same for the six-month Off-Peak RNA ("RNAo").

Columbia argues its current and proposed customer charges do not fully recover the fixed costs incurred to serve Residential customers, and OCA opposes cost-based changes to the Residential customer charge. The purchased gas adjustment collects only gas costs and has nothing to do with stabilizing distribution service revenue. Columbia also disagrees with BIE's and OCA's claims Columbia can use the WNA to stabilize revenue. The Company argues the RNA and WNA serve different purposes and do not overlap. The WNA adjusts only for variances related to weather and not other factors that impact revenue levels. The WNA is not intended to serve as a substitute for the RNA, but rather work in conjunction with the WNA. Thus, BIE's suggestions that Columbia can simply rely on the WNA in place of the RNA should be rejected.

i) BIE's, CAUSE-PA's and CAAP's Arguments Regarding the RNA's Impacts on Conservation Efforts are Without Merit and Should Be Rejected.

Columbia notes BIE contended the RNA has the potential to harm customers because it is contrary to conservation efforts. CAUSE-PA and CAAP expressed similar concerns that the RNA would disproportionately harm low-income customers who attempt to lower their bill through conservation efforts. Columbia counters the RNA does not undermine customers' ability to save through conservation, but the customers will have the same incentive to conserve if the RNA is implemented. First, a significant portion of a customer's bill is comprised of commodity gas costs, which are not impacted by the RNA, so customers who conserve will see their commodity costs lowered. Second, the RNA, unlike the WNA, does not result in real time billing adjustments, so conservation efforts will result in immediate savings on a customer's bill. Columbia St. No. 3-R, at 11.

Columbia notes CAAP states that the "lag time" in billing adjustments means that customers would not be able to make the connection between reduced consumption and a reduced bill but the Company asserts CAAP has it exactly backward. By postponing the adjustment until a later billing period, Columbia argues a customer who implements a conservation measure will experience the associated savings on their next bill. Third, the RNA is designed to reflect what would normally happen in a rate case when customer usage declines –

fixed costs are spread over lower volumes and Residential rates increase. The RNA serves the same purpose without the time and expense of a rate case.

With respect to the RNA's impact on low-income customers, Columbia proposes to exclude CAP customers from the RNA, so CAP customers' bills with not be affected. Any CAP customers who seek to lower their bill by reducing usage will be able to successfully do so. Columbia notes CAUSE-PA recommended all low-income customers, not just those enrolled in CAP, should be excluded from the RNA, but Columbia contends excluding all low-income customers from the RNA is not necessary. Eligible low-income customers who become unable to afford their bill can apply for CAP at any time.

ii) OCA's Allegations that Columbia Has Not Complied with the Commission's Procedural Requirements for Proposing an Alternative Ratemaking Mechanism are Without Merit and Should Be Rejected.

OCA claims Columbia's proposal to implement the RNA should be denied because the Company has not complied with the procedural requirements set forth in the Commission's Alternative Ratemaking Policy Statement, *Fixed Utility Distribution Rates Policy Statement, Final Policy Statement Order*, Docket No. M-2015-2518883 (Order entered July 18, 2019). Columbia contends OCA is incorrect.

Columbia argues the Commission's Alternative Ratemaking Policy Statement. Is a policy statement which provides nonbinding guidance and does not have the force of law.[442] The Company contends the Commission made this point clear in its Act 58 Implementation Order when it stated:

> The Commission recognizes that the proceeding at Docket No. M-2015-2518883 began prior to the passage of Act 58 and that

[442] *See Petition of Philadelphia Gas Works for a Statement of Policy on the Application of Philadelphia Gas Works' Cash Flow Ratemaking Method,* 2009 Pa. PUC LEXIS 2018, *20 (December 30, 2009) (policy statements are only an indication of how the PUC intends to proceed); *Pa. Associated Builders & Contrs., Inc. v. Pa. Dep't of Gen. Servs.*, 996 A.2d 576, 583 (Pa.Cmwlth. 2010); *R.M. v. Pennsylvania Hous. Fin. Agency*, 740 A.2d 302, 308 (Pa.Cmwlth. 1999).

> both address policy considerations related to alternative ratemaking methodologies available to utilities. The Commission notes, however, that Act 58 and the proposed policy statement, while addressing utility alternative ratemaking, each have a different function in the process of establishing such rates for utilities. As will be discussed more fully below, Act 58 gave the Commission express statutory authority to approve alternative rate mechanisms for electric, natural gas, and water or wastewater utilities and what notices of such ratemaking requests are to be given to customers. While establishing the Commission's express statutory authority to approve alternative rate methodologies, Act 58 did not expressly determine which alternative rate methodology, if any, are to be used by which utility.
>
> **On the other hand, the proposed policy statement is intended only to give guidance to fixed utilities and interested stakeholders on what is to be considered when investigating alternative ratemaking methodologies in a Section 1308 rate proceeding. While intending to assist utilities and stakeholders, the policy statement does not establish a binding norm, nor does it establish a predicate for the adoption of an alternative rate mechanism by any fixed utility.** The Commission is continuing to review the comments submitted under Docket No. M-2015-2518883, as well as the comments submitted under the above-referenced Docket relating to the proposed policy statement and will consider how to proceed, taking into consideration what, if any, impact Act 58 has on the policy statement and how that policy statement will interact with Act 58.[443]

Accordingly, Columbia argues the Commission's Policy Statement cannot serve as the basis for rejecting the RNA. Columbia contends it explained how it considered the factors that are applicable to the RNA as set forth in the Commission's Policy Statement but notes OCA claimed that it was not satisfied with Columbia's level of explanation. Columbia points out it explicitly laid out in its rebuttal testimony how it considered the applicable factors relevant to RNA. Those factors are:

- **Factor 1 –** How the Ratemaking Mechanism and Rate Design align revenues with cost causation principles as to both fixed and variable costs – The RNA establishes a benchmark distribution revenue based upon approved costs in this proceeding, which

443 *Act 58 Implementation Order* at 3-4 (emphasis added).

will allow the Company to collect the non-CAP residential revenue requirement;

- **Factor 5 –** How the Ratemaking Mechanism and Rate Design limit or eliminate disincentives for the promotion of efficiency programs – Because the link between level of throughput and base revenue recoveries is broken, reduced throughput will not lead to revenue and earnings erosion due to under-recovery (see Factor 1) of these costs and aligns the Company's and its customers interests as it pertains energy efficiency and conservation initiatives.
- **Factor 6 –** How the Ratemaking Mechanism and Rate Design impact customer incentives to employ efficiency measures and distributed energy resources - See Factor 5;
- **Factor 9 -** How weather impacts utility revenue under the Ratemaking Mechanism and Rate Design – The RNA, as proposed will only capture differences net of weather as the benchmark is based upon normal weather and the actual revenue will include billed WNA adjustments;
- **Factor 12 –** Whether the alternative Ratemaking mechanism and Rate Design Include appropriate consumer protections – The RNA as proposed establishes a Benchmark Distribution Revenue per Bill ("BDRB") residential customer. Rider RNA will refund any amount over the established benchmark, and collect any amount below the benchmark. By design, the Company cannot retain revenue in excess of the BDRB, which protects the customer from being over-charged. As stated on page 26 of my Direct Testimony, lines 1 through 4, the Company will submit two filings per year for the RNA mechanism, which can be reviewed and audited by the Commission, similar to the process for the Company's PGC and Rider USP filings.[444]

Columbia contends OCA chose to ignore repeatedly Columbia's explanation, rather than respond to Columbia's testimony on substantive grounds, and OCA continues to make the same procedural arguments in a baseless attempt to have the RNA denied. OCA's position should not be accepted.

444 Columbia St. No. 3-R at 22-25.

iv) The RNA Benefits Both the Company and its Customers.

Columbia argues the stability provided by the RNA is beneficial for both the Company and its Residential customers because not only would the Company collect any distribution revenues under the benchmark revenue per customer, the Company would credit to customers any distribution revenues over the benchmark revenue per customer. Columbia St. No. 3, at 22-27. In that way, Columbia contends the RNA works to ensure that the amount of revenues collected by the Company is equal to the level of revenue approved in a base rate case. Providing a credit to customers when usage is high helps to lower a customer's total bill by offsetting higher commodity costs.

The Company argues the RNA is a fair mechanism that benefits Columbia and its customers by achieving greater revenue stability while allowing customers to experience the benefit of controlling their usage and conserving. Columbia's proposed RNA should be approved.

2. Small C&I Customer Rate Design

Columbia contends, for Small General Service customers using less than or equal to 6,440 therms annually, the customer charge studies produce a range of customer costs from $25.87 (excluding mains) to $60.16 (including mains). Columbia Exhibit No. 111, Schedule 1, at 16, 25. Columbia's proposed customer charge of $30.00 falls just above the bottom of the range of costs. Columbia proposes a volumetric rate of $5.4497/Dth for SGS-1/SCD-1 service and $5.3413/Dth for SGDS-1 service. Columbia St. No. 3, at 36-37.

For Small General Service customers using between 6,440 and 64,400 therms annually, Columbia proposes a customer charge of $60.00, which is $12.00 more than the current $48.00 customer charge. The customer charge studies produced a range of costs from $43.99 (excluding mains) to $108.42 (including mains). The Company proposes a volumetric charge of $4.7467/Dth for SGS-2/SCD-2 service and $4.6384/Dth for SGDS service.

Columbia argues it is appropriate to include a customer component of mains in the minimum system charge study. Columbia asserts BIE's recommendation is inconsistent with sound ratemaking principles because BIE proposes a customer charge for SGS-2 customers ($45) that is **lower** than the customer charges at present rates ($48). Columbia Exhibit MJB-2R. Columbia's current and proposed customer charges for these classes fall within the range of the two customer charge studies and are well below the minimum system charges shown in the customer charge study including mains. Columbia Exhibit No. 111, Schedule 1, at 16, ln. 41. Columbia's proposed customer charges for Small C&I customers are reasonable and should be approved.

3. Large C&I Customer Rate Design

Columbia proposes the SDS/LGSS customer charge for customers whose usage is between 64,400 therms and 110,000 therms should be $290.00, which amount is $60.25 more than the current SDS/LGSS customer charge of $229.75. The proposed SDS/LGSS customer charge for customers whose usage is between 110,000 therms and 540,000 therms is $940.00, which amount is $182.66 more than the current SDS/LGSS customer charge of $757.34. The volumetric base rate will be $3.3081/Dth for SDS/LGSS customers whose usage is between 64,400 therms and 110,000 therms, and the volumetric base rate will be $3.0928/Dth for SDS/LGSS for customers whose usage is between 110,000 therms and 540,000 therms. Columbia St. No. 3, at 37-38.

Columbia provided the table below to illustrate the proposed and current customer charges for the LDS/LGSS rate class:

Annual Usage Levels	Current Cust. Charge	Proposed Cust. Charge
> 540,000 to ≤ 1,074,000 Therms	$1,947.06	$2,419.00
> 1,074,000 to ≤ 3,400,000 Therms	$3,028.76	$3,759.00
> 3,400,000 to ≤ 7,500,000 Therms	$5,841.18	$7,248.00
> 7,500,000 Therms	$8,653.60	$10,728.00

Columbia St. No. 3, at 38.

Columbia proposes the volumetric base rate revenue requirement be split among the LDS/LGSS annual usage groups proportionately based on revenue produced from current volumetric base rates. *See* Exhibit 103, Schedule 8, Page 8, Lines 29 through 32. Columbia notes BIE stated it does not recommend any changes to the proposed customer charges for the LDS class because higher usage customers generally favor a higher fixed charge and lower usage charges. I&E St. No. Cline, at 23. The Company points out that, aside from CII witness Mr. Plank expressing his general view that the overall proposed increase in charges to Rate LDS customers should be limited, no other party recommended any changes to the proposed customer charges for the LDS/LGSS class. CII St. No. 1, at 7. Columbia's proposed customer charges for the Large C&I class are reasonable and should be approved.

4. Gas Procurement Charge Rider

Columbia proposes a Gas Procurement Charge (GPC) of $0.00102 per therm. Columbia Exhibit No. MJB-3 shows the calculation of the proposed GPC. No party challenged the Company's proposed GPC. The GPC of $0.00102 per therm should be approved.

e. Bill Impacts

At the Company's proposed revenue requirement, a typical Residential customer using 70 therms of gas per month will see an increase in their monthly bill from $89.13 at current rates to $104.80, or by 17.58%

A Small C&I customer using 150 therms of gas per month will see an increase in their monthly bill from $142.35 to $164.18, or by 15.34%. The class average bill impacts of the Company's proposed rate increase are shown on Exhibit No. 103, Schedule 8, page 1, column 7. Graphs of the bill impacts for Residential and C&I customers are provided in Exhibit No. 111, Schedule 5, pages 1-10.

On August 20, 2020, the Commission issued an Order in this docket granting Columbia's Petition for Reconsideration and ordering that the base rates resulting from this

proceeding be effective as of the end of the statutory suspension period under Section 1308(d) of the Public Utility Code. Thus, the effective date of rates is January 23, 2021. *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.,* Docket No. R-2020-3018835 (Order entered August 20, 2020). In its Order, the Commission directed that the parties address the following two items: 1) the appropriate amount of rate recovery starting from the end of the Section 1308(d) suspension period, January 23, 2021, until the date the final rates are approved in a final Commission order and take effect in the utility's compliance tariff filing; and (2) the appropriate mechanism for implementing such rate recovery. *Id.*

As Columbia explained, the appropriate amount of rate recovery for the period between the effective date of rates and the date on which new rates go into effect is not known at this time and is not needed in advance of back billing. Back billing will not change the amount of rate recovery for this period. It will only delay the billing of any incremental revenue due to a Commission-approved rate increase until a customer's bill is issued for the subsequent month. Simply put, the Company will apply the Commission-approved rates to prior billed usage, and the back billing amount will be the difference between the amount calculated at new rates and amounts actually billed previously at old rates. Columbia St. No. 3-R, at 37.

Columbia will not need a special rate mechanism to accomplish its proposed recovery method. Once new base rates are approved and entered in Columbia's billing system, customer-specific billing adjustments will be calculated and added to each customer's bill. The individual billing adjustments will be computed using each customer's consumption for the appropriate period. Notably, this is the same process that is used when compliance rates are not approved until after the effective date of new rates in a base rate case. Although the back billing amount will be specific to each customer, for illustrative purposes, at the Company's proposed rates, a Residential customer using 10 therms in a winter month would owe an additional $7.59. Columbia St. No. 3-R, at 38.

No party objected to Columbia's proposed method of recovery, and it should be approved.

2. BIE's Position

a. Introduction

BIE explains that a utility's rate structure addresses how the Commission's approved revenue increase will be allocated among the utility's various tariffed rate classes. Once a class revenue allocation is determined, development of a rate design will address how the tariffed rates and rate elements will generate the allocated revenues. BIE notes a properly designed rate structure will not unduly burden one class of ratepayers to the benefit of another. Under the Public Utility Code, "[n]o public utility shall…make or grant any unreasonable preference to any person, corporation….No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service."[445] Differences in rates charged to different classes are permissible so long as there is a reasonable basis for the discrepancy.[446] "Public utility rates should enable the utility to recover its cost of providing service and should allocate this cost among the utility's customers in a just, reasonable and nondiscriminatory manner."[447]

b. Cost of Service

BIE notes an allocated cost of service (ACOS) allocates or assigns a utility's revenue requirement based on provision of service to a defined set of customer classes that are different in terms of demand and usage patterns. An ACOS is a formalized analysis of costs that attempts to assign to each customer or rate class its proportionate share of the company's total cost of service. BIE explains the results of each service can be utilized to determine the relative cost of service for each class and help determine the individual class revenue requirements and, to the extent a particular class is above or below the system average rate of return, show the additional revenues each class receives or conversely the additional revenues that each class

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[445] 66 Pa.C.S.A. § 1304.

[446] *Peoples Natural Gas Co. v. Pa. Pub. Util. Comm'n*, 409 A.2d 446 (Pa.Cmwlth. 1979).

[447] *Pa. Pub. Util. Comm'n v. West Penn Power*, 73 Pa. P.U.C. 454, 510, 199 PUR 4th 110 (1990).

contributes to the company's overall revenues. In addition to the relative provision of revenues, a relative rate of return is also provided, which shows how the rate of return for each class compares to the system average rate of return.[448]

BIE further notes the rate of return is the Commission authorized return on rate base that is determined in a base rate proceeding. A relative rate of return indicates how the rate of return of each customer class compares to the system average rate of return. In general, a relative rate of return that provides revenue equal to its cost to serve would have a relative rate of return equal to 1.0.[449]

BIE points out that Columbia performed and provided three ACOS studies in its filing: (1) a customer demand ACOS, (2) a peak and average ACOS, and (3) an average of the customer-demand and peak and average ACOS.[450] The Company proposed to utilize the third method - the average of the customer-demand study and the peak and average study - to allocate the proposed revenue increases.[451] BIE disagreed with this recommendation as it believes that the peak and average ACOS study should be utilized.

BIE argues the difference between the customer-demand ACOS and the peak and average ACOS is in the way that each study allocates costs of mains. Consequently, the two ACOS studies yield different relative rates of return for each rate class.[452] Generally, the customer-demand study is more favorable to the industrial class and the peak and average study is more favorable to the residential class.[453] The customer-demand methodology classifies distribution mains as partially customer related and partially demand related. The customer portion of mains is then allocated to the various customer classes based on the total number of

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448 I&E Statement No. 3 at 12-13.

449 I&E Statement No. 3 at 13.

450 Columbia Exhibit No. 111, Schedule 1; Columbia Statement No. 3 at 11.

451 Columbia Statement No. 11 at 3.

452 I&E Statement No. 3 at 14.

453 I&E Statement No. 3 at 14 (*citing* Columbia Statement No. 11 at 3).

customers, while the demand portion is allocated to classes based on peak day contributions or demand. Applying this methodology, the relative rate of return for the RSS/RDS customer classes is 0.73 meaning the Company does not recoup the full costs it incurs to provide service for those customer classes.[454] This methodology has been rejected by the Commission in other natural gas base rate cases.[455]

BIE points the peak and average ACOS, in contrast, allocates distribution mains to classes based partially on contributions to peak day demand and partially on annual consumption or average demand. Utilizing this methodology, the relative rate of return for the RSS/RDS customer classes is 1.25 meaning the customer classes pay more than the Company incurs to provide service to them under present rates.[456] This methodology has been accepted by the Commission in previous cases and is recommended by BIE in this proceeding.

BIE acknowledges the Company, OSBA and PSU disagreed with its recommendation to use the peak and average methodology. Columbia's witness claimed throughput has no impact on the determination of the size, length, or cost of the distribution main serving the customers[457] and objected to the use of a single COSS in revenue allocation and rate design.[458] Citing to an example provided by OCA's witness in direct testimony, Columbia argued the throughput of the customer is a factor in the cost of the mains-[459] and OCA's witness was incorrect to surmise the load is the determining factor in the main investment.[460]

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454 I&E Statement No. 3 at 15 (*citing* Columbia Exhibit No. 111, Schedule 1 at 2, line 14, column D).

455 *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-00061931 (Order Entered September 28, 2007) ("Reviewing the record, we find that the allocation of distribution mains investment costs should be done using both annual and peak demands.").

456 I&E Statement No. 3 at 15 (*citing* Columbia Exhibit No. 111, Schedule 1 at 2, line 14, column D).

457 Columbia Statement No. 11-R at 6.

458 Columbia Statement No. 11-R at 2.

459 I&E Statement No. 3-SR at 16.

460 Columbia Statement No. 11-R at 11-13.

Columbia's witness had noted commercial customers pay a contribution in aid of construction (CIAC) because commercial customers provide less revenue than residential customers. Therefore, the mains investment made by the Company for one residential customer is more than the investment for the commercial customer. However, Columbia contended it determines the need for, and the amount of, CIAC that will be required by comparing the revenue received by the commercial customer with the revenue received by the residential customer. The revenue received from each customer includes a calculation based on the throughput. Therefore, the throughput of the customer is a factor in the cost of the mains.[461]

Columbia's witness also rejected BIE's reference to the 1994 National Fuel Gas Distribution Corporation (NFG) Order on page 52 because in the 1994 NFG case, NFG only submitted studies based on the peak and average methodology and not multiple methodologies as the Company has done herein.[462] However, BIE points out NFG submitted two different peak and average cost of service studies in the 1994 case and Columbia's witness has disregarded the fact the Commission had the authority to reject the peak and average method and determine whether a different methodology would be appropriate. The Commission did not reject the peak and average method in the 1994, and in the Order stated that the "Peak & Average method that allocates mains equally is a sound and reasonable method of cost allocation and should remain intact."[463]

BIE disagrees with Columbia's argument that throughput is not a determining factor when it comes to main investment because the purpose of a natural gas distribution company, such as Columbia, is to deliver gas at all times for 365 days a year. The two main reasons an NGDC invests in its distribution system is to improve safety and to meet the gas supply needs of its customers. BIE disagrees with the Company's statement that "the availability of receiving gas service 365 days a year is a reason the customer requests gas service and causes the gas distribution company to invest in the purchase and installation of gas mains but has

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461 I&E Statement No. 3-SR at 16.

462 Columbia Statement No. 11-R at 20.

463 *Pa. Pub. Util .Comm'n v. National Fuel Gas Distribution Co.,* 83 Pa. PUC 262 (1994).

nothing to do with Columbia's incurred cost of the pipe or the cost of installing the gas main to provide service to the customer."[464] BIE asserts the Company's claims make no sense - that a customer who wants gas service is the reason that Columbia incurs the cost of serving that customer but providing the requested service has nothing to do with the cost of connecting that customer.[465]

BIE argues multiple cost of service studies are necessary when allocating costs and Columbia failed to provide any support in which the Commission has made such a distinction regarding allocations based on multiple cost of service studies. BIE opines that requiring multiple cost of service studies could be overly burdensome to other utilities. Whether a utility presents a single or multiple cost of service studies in a base rate case should be decided based on the utility's decision, prior Commission Orders, or the specific requirements of each base rate case. If multiple cost of service studies are presented, it is then up to the Commission to decide whether to adopt all, one, or none of the studies presented, on a case by case basis.[466]

BIE notes OSBA also disagreed with its recommendation to use the peak and average study. In rebuttal testimony, OSBA's witness pointed out that recent Commission precedent for electric distribution utilities specifically affirms the use of a customer-demand allocation methodology for classifying electric distribution system costs and referred to two recent PPL Electric Utilities Corporation rate cases.[467] OSBA claims that the conceptual argument for customer-demand allocation for gas and electric distribution companies is identical.[468]

BIE disagrees with OSBA and opines OSBA did not take into account there are often distinct differences between electric distribution companies and natural gas distribution

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[464] Columbia Statement No. 11-R at 6.

[465] I&E Statement No. 3-SR at 15-16.

[466] I&E Statement No. 3-SR at 17.

[467] OSBA Statement No. 1-R at 12.

[468] OSBA Statement No. 1-R at 12.

companies, including the fact that electric distribution cost of service studies use customer and demand allocators, while gas and water companies also use volumes as an allocator; additionally, there are differences as it relates to geographical and customer density characteristics. BIE specifically criticized OSBA's example with PPL and differentiates PPL from Columbia. BIE points out PPL is largely rural in nature, is required to run distribution lines along every public road and provides service to virtually every residence and business within its service territory. The same scenario is not true for natural gas distribution companies that do not have this same service requirement.[469]

BIE acknowledges PSU opposed BIE's recommended use of the peak and average ACOS only in allocating costs in this proceeding stating that there are valid reasons that there are other ACOS methodologies that have a sound technical and economic basis to them.[470] BIE agrees it is reasonable for the Commission to examine alternative methods for cost allocation and in this case, BIE's witness examined the Company's recommended alternative methods for cost allocation. However, BIE continues to recommend the Commission use the Peak and Average ACOS to allocate costs in the current proceeding. [471] BIE points out that, while the Company, OSBA, and PSU disagree with its recommended use of the peak and average study, in general, any system must be designed to handle peak usage and year-long usage and although mains serve customers, the type of main investment is properly determined by the throughput.[472]

Lastly, BIE notes OCA indicated it agreed that the peak and average cost allocation method should be accepted, however, OCA's witness did not agree that the peak and average ACOS study presented by the Company should be accepted for two reasons. First, OCA disagrees with the Company's assignation of distribution mains investment into three separate categories and allocates these costs to classes based on the original cost of its distribution mains

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469 I&E Statement No. 3-SR at 19.

470 PSU Statement No. 1-R at 14.

471 I&E Statement No. 3-SR at 19-20.

472 I&E Statement No. 3-SR at 18.

investment. Second, OCA claims the Company's ACOS study fails to properly allocate the cost associated with major account representatives.[473]

BIE asserts its witness disagrees with OCA for two reasons. First, BIE believes Columbia's allocation of mains investment because the Company's allocation of depreciation reserve is matched to the allocation of plant in service to determine net plant is reasonable. Second, BIE agrees that, if the major accounts representatives were assigned only to large customers then the specific representatives that are experts in residential marketing should only be assigned to residential customers. Therefore, BIE believes the Company's approach to allocating major accounts representatives is reasonable.[474]

For the reasons stated above, BIE argues its recommendation to use the peak and average ACOS is reasonable, based upon the Commission's previous acceptance of the peak and average methodology and its rejection of including the cost of distribution mains as a customer cost. Therefore, BIE continues to recommend the Commission use the peak and average ACOS to allocate the final revenue increases among the different customer classes.

i. Customer Cost Analysis

BIE explains a customer cost analysis is part of a cost of service study (COSS) that is used to determine the appropriate fixed customer charges for the various classes and meter sizes, and a customer cost analysis includes customer costs only. It is necessary to perform a customer cost analysis because a fixed customer charge represents the revenue that the Company is guaranteed to receive each month, regardless of the level of usage.[475] There is a tradeoff between revenue stability from a high customer charge versus affordability and conservation from a low customer charge and higher usage rates.[476] BIE notes there are two different

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[473] OCA Statement No. 4-R at 2.

[474] I&E Statement No. 3-SR at 20.

[475] I&E Statement No. 3 at 20.

[476] AWWA Manual of Water Supply Practices M1 Principles of Water Rates, Fees, Charges, Seventh Edition. at 154-155.

customer costs: direct and indirect. A direct customer cost is a cost that changes with the increase or decrease of a single customer. An indirect customer cost is a customer related cost that does not change with the increase or decrease of a single customer. BIE notes the Commission has allowed, in past instances, certain indirect customer costs to be included in a customer cost analysis and thus recovered in a customer charge. As an example, in previous cases, the Commission has allowed Employee Pension and Benefits as an indirect cost.[477]

BIE points out the Company prepared two customer cost analyses.[478] The first customer cost analysis allocates a portion of the cost of mains to customers.[479] The second customer cost analysis does not allocate any portion of the cost of mains to customers.[480] The results of the Company's customer cost analyses are presented in the following table:

Customer Class	Including Mains (Columbia Ex. No. 111, Sch. 1, p. 16, line 41)	Excluding Mains (Columbia Ex. No. 111, Sch. 1, p. 25, line 37)
RSS/RDS	$54.16	$23.05
SGS/DS-1	$60.16	$25.87
SGS/DS-2	$108.42	$43.99
SDS/LGSS	$459.97	$191.02
LDS/LGSS	$2,161.40	$919.89
MLDS	$1,170.32	$1,032.73
FLEX	$4,868.08	$1,548.69

BIE disagrees with Columbia's customer cost analysis because the Commission has established in previous cases that mains are not properly included in a customer cost

477 I&E Statement No. 3 at 20.

478 Columbia Exhibit No. 111, Schedule 1 at 14-30.

479 Columbia Exhibit No. 111, Schedule 1 at 14-22.

480 Columbia Exhibit No. 111, Schedule 1 at 22-30.

analysis.[481] BIE notes, for example, the Commission stated in the PGW base rate case that it found "PGW's proposal to allocate a percentage of the cost of the distribution mains as a customer cost not to be acceptable."[482] BIE argues Columbia failed to provide support for its position and did not provide any Commission Order where the Commission allowed the cost of mains to be included in the customer cost analysis.[483] Therefore, BIE continues to recommend the Company's customer cost analysis that includes the cost of mains should be rejected.

c. Revenue Allocation

i. Proposed Revenue Allocation and Alternatives

BIE recommends that all customer charges and usage rates that have been proposed an increase, if less than the full increase is granted, are scaled back proportionately based on the allocated cost of service study that is ultimately approved by the Commission.[484] BIE notes that, on rebuttal, Columbia's witness stated the Company will utilize the approved allocated cost of service to scale back proportionally all revenue requirements for revenue and rate design purposes.[485] Accordingly, BIE requests the ALJ recommend and the Commission order a proportional scale back of rates if less than the full increase is granted.

ii. Flex Customers

BIE points out that Columbia's current tariff allows it to grant discount or "flex-rates" to certain customers who can show that they have a competitive alternative to the

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481 I&E Statement No. 3 at 22-23.

482 *Pa. Pub. Util. Comm'n. v. Philadelphia Gas Works*, Docket No. R-00061931 at 46 (Order Entered September 28, 2007).

483 I&E Statement No. 3 at 22-23.

484 I&E Statement No. 3 at 24-25.

485 Columbia Statement No. 3-R at 15.

Company's gas supply.[486] During this proceeding, the Company's present and proof of revenue schedules show revenue from flex-rate customers for several rate schedules.[487]

BIE recommends Columbia provide an update to the competitive alternative analysis for any customer that has not had their alternative fuel source verified for a period of 10 years or more at the point at which Columbia Gas files its base rate case. It is important to periodically analyze competitive alternatives to ensure that the rates of flex-rate customers are not discounted lower than is necessary to avoid the customer choosing the alternative supply. Providing excessive discounts to customers is not in the public interest and would be harmful to both the Company and its customers since the other customers make up the lost revenue that results when flex-rate customers pay less than tariff rates.[488]

BIE notes two situations in which a competitive alternative analysis could benefit Columbia and its customers. First, a situation could arise where a larger pipeline project is needed to serve both the flex-rate and tariff customers. If the Company were to terminate the flex-rate contract (based on the findings of a competitive alternative analysis, showing that there was no reasonable alternative), it could result in the scale-back or cancellation of the larger pipeline project, and avoidance of capital and operating expense, which would result in savings for the Company and its customers.[489] Second, a situation could arise where the customers may no longer have a viable alternative supply or source of gas or gas capacity, or the cost of the alternative supply to customers as increased or will increase. The cost and difficulty a customer could face to construct interconnections to pipelines may have increased over the time since the last competitive alternative was verified due to inflation, public concerns, restoration costs, and environmental impacts.[490]

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[486] I&E Statement No. 3 at 5. In direct testimony, I&E witness Cline cites to the Company's flex-rate provisions in Supplement 221 to Columbia Tariff Gas – PA P.U.C. No. 9 at 68.

[487] I&E Statement No. 3 at 5.

[488] I&E Statement No. 3 at 6.

[489] I&E Statement No. 3 at 6-7.

[490] I&E Statement No. 3 at 6-7.

BIE notes Columbia disagrees and its witness referenced a 2018 Columbia rate case settlement where the Company agreed to provide updates on alternative supply verifications and complied with that term. However, BIE notes the same witness stated "Columbia does not believe this analysis is necessary going forward"[491] and Columbia prefers to enter into contracts that are less than 10 years in length because facts and circumstances may change through the life of the contract.[492]

BIE argues customers under flex rates are not paying the full cost of service rate that they would otherwise be charged absent a verifiable alternative, which creates a revenue shortfall that must be subsidized by the other rate classes. As mentioned previously, providing excessive discounts to customers would be harmful to both the Company and its customers, because other customers must make up the lost revenue that results when flex-rate customers pay less than tariff rates. Therefore, providing an accurate and up-to-date analysis of competitive alternatives is necessary and reasonable. BIE asserts this analysis is needed to ensure that flex-rate customers make the maximum contribution to fixed costs.[493]

For the reasons stated above, BIE recommends Columbia provide an update to the competitive alternative analysis for any customer that has not had their alternative fuel source verified for a period of 10 years or more at the point at which Columbia Gas files its base rate case is reasonable and should be adopted.

iii. Allocation of Universal Service Costs

BIE did not address allocation of universal service costs.

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491 I&E Statement No. 3-R at 3-4 (*citing* Columbia Statement No. 1-R at 62).

492 Columbia Statement No. 1-R at 62-63.

493 I&E Statement No. 3-SR at 5.

d. Rate Design

i. Residential Rate Design

a) Residential Customer Charge

BIE notes Columbia has proposed the following customer charges for each rate class receiving a proposed increase:

Columbia's Proposed Customer Charges[494]

Rate Schedule (Therms, annually)	Present Rate	Change	Proposed Rate	Percent Increase
RS, RDS, RCC				
All Usage	$16.75	$6.25	$23.00	37.31%
SGSS1, SCD1, SGDS1				
≤6,440	$22.75	$7.25	$30.00	34.51%
SGSS2, SCD2, SGDS2				
>6,440 to ≤64,440	$48.00	$12.00	$60.00	25.00%
SDS/LGSS				
>64,400 to ≤110,000	$229.75	$60.25	$290.00	26.22%
>110,000 to ≤540,000	$757.34	$182.60	$940.00	24.11%
LDS				
>540,000 to ≤1,074,000	$1,947.06	$472.94	$2,420.00	24.29%
>1,074,000 to ≤3,400,000	$3,028.76	$731.24	$3,760.00	24.14%
>3,400,000 to ≤7,500,000		$1,408.82	$7,250.00	24.12%
>7,500,000	$8,653.60	$2,076.40	$10,730.00	23.99%

494 Columbia Exhibit No. 103, Schedule 8 at 5-9.

BIE recommends reducing the customer charges for the SGSS1, SGSS2 and SDS /LGSS classes based upon BIE's recommended customer cost analysis discussed above, and accepts the Company's proposed customer charges to the RS/RDS/RCC and LDS classes.

BIE's recommended customer charges for the SGSS1, SGSS2, and SDS/LGSS are shown in the table below:

BIE Corrected Customer Charge Table[495]				
Rate Schedule (Therms, annually)	Customer Cost Analysis	Company Proposed Rate	Change	BIE Proposed Rate
RS, RDS, RCC				
All Usage	$23.05	$23.00	$0.00	$23.00
SGSS1, SCD1, SGDS1				
≤6,440	$25.87	$30.00	($4.00)	$26.00
SGSS2, SCD2, SGDS2				
>6,440 to ≤64,440	$43.99	$60.00	($15.00)	$45.00
SDS/LGSS				
>64,400 to ≤110,000	$191.02	$290.00	($98.98)	$191.02
>110,000 to ≤540,000	$919.89	$940.00	($20.00)	$920.00

BIE points out Columbia and OCA disagreed with BIE's customer charge recommendations. Columbia continued to support its proposed customer charges while OCA's witness disagreed because he believes Columbia's customer charge is already the highest in the Commonwealth and the proposed 40% increase to residential customers violates the principle of gradualism.[496]

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[495] I&E Statement No. 3-SR at 22; I&E's recommended customer charge table was updated in surrebuttal testimony to correct inadvertent errors in the direct testimony table.

[496] OCA Statement No. 4-R at 2.

BIE acknowledges the 40% increase in customer charge is significant; however, BIE contends its recommendation does not violate the principle of gradualism because BIE recommends that customer charges should be included in any scale back of rates.[497] Further, BIE contends each Pennsylvania natural gas distribution company has its own specific costs. Allocation of these costs produces different results and the rates of each company should be determined based on the facts and data specific to that company. BIE insists it based its recommendations on the customer cost analysis using data specific to this case.[498] Therefore, BIE continues to recommend the Company's customer charges for RS/RDS/RCC and LDS classes and BIE's reduction to the SGSS1, SGSS2 and SDS /LGSS classes reflected in the above table be adopted.

b) Weather Normalization Adjustment

BIE states the Weather Normalization Adjustment (WNA) was established as a pilot program after Commission approval in Columbia's 2012 base rate case and was made a permanent Rider after Columbia's 2018 base rate case. The purpose of the WNA is to adjust the temperature sensitive portion of a customer's bill in order to mitigate the impacts of warmer or colder than normal weather.[499] In other words, customers are billed less than what a traditional bill calculation would require during colder than normal heating seasons and billed more during warmer than normal heating seasons.[500]

BIE notes the WNA currently has a 3% "deadband", which the Company is proposing to remove in this proceeding.[501] The 3% deadband is a provision the Company agreed to as a part of the 2018 base rate case settlement at Docket No. R-2018-2647577. As stated in

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497 I&E Statement No. 3-SR at 23.

498 I&E Statement No. 3-SR at 24.

499 Columbia Statement No. 3 at 16.

500 Columbia Statement No. 3 at 17-18.

501 Columbia Statement No. 3 at 19.

Columbia Tariff Supplement 282 to Tariff Gas – Pa. P.U.C. No. 9 Tenth Revised Page No. 162, paragraph (h):

> A 5% deadband shall be effective through the January 2019 cycle billing. The WNA for a billing cycle will apply only if the AHDD [Actual Heating Degree Days] or the billing cycle are lower than 95% or higher than 105% of the NHDD [Normal Heating Degree Days] for the billing cycle. A billing adjustment will only occur if the variation of AHDD is lower than 95% or higher than 105% of the NHDD for an individual billing cycle. Beginning with the February 2019 cycle billing, the deadband will be 3%. At that time, the WNA for a billing cycle will apply only if the AHDD for the billing cycle are lower than 97% or higher than 103% of the NHDD for an individual billing cycle.

BIE points out the example provided by the Company is that, if a billing cycle is 2% warmer or colder than normal, then no adjustment would be made.[502] BIE recommends the Commission deny the Company's proposal to remove the 3% deadband. BIE explains a WNA is a departure from traditional ratemaking in that it allows the Company to actually adjust a customer's base rate bill, which was calculated based on Commission approved rates, outside the scope of a base rate case. BIE asserts such a departure from traditional ratemaking should only occur due to circumstances that are an extraordinary departure from normal operating conditions, such as abnormal weather. There is no need to reconcile the day-to-day temperature variations that can be considered a normal part of doing business. Therefore, a 3% deadband is a reasonable provision, because it allows for a range of what is considered "normal" weather in which the Company's Commission-approved rates would be applied without adjustment.[503]

BIE noted the Company continued to disagree in rebuttal testimony for two reasons. First, Columbia does not agree that the WNA only serves as an extreme weather fix[504] and contends the goal of the WNA is to "eliminate revenue and bill variations due to warmer and

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[502] Columbia Statement No. 3 at 19.

[503] I&E Statement No. 3 at 9.

[504] Columbia Statement No. 3-R at 4.

colder than normal weather."[505] Second, Columbia provides an example of the revenue impact of 2.5% colder than normal weather on a typical residential customer with the 3% deadband in place,[506] which resulted in a 3% variance in customers' bills.

BIE stresses that the Company's WNA proposal is a tariff provision that allows the Company to adjust Commission-approved rates in between rate cases. This provision is a departure from traditional ratemaking and such a departure should only occur due to circumstances that are an extraordinary departure from normal operating conditions, such as abnormal weather. BIE submits that the 3% deadband represents a range of what can be considered "normal" weather and the WNA with the 3% deadband achieves the Company's stated goal of eliminating revenue and bill variations due to warmer and colder than normal weather. Moreover, BIE argues Columbia failed to provide any support to show that weather variations within 3% above or below an established base line could or should not be considered "normal" weather. Weather is inherently variable, and there is no need to reconcile day-to-day temperature variations that fall within the 3% deadband.[507]

Finally, BIE states the proposed Revenue Normalization Adjustment (RNA) should not be considered when determining whether a 3% deadband in the WNA is reasonable. The RNA, discussed below, is currently at issue in the present proceeding and has not yet been approved by the Commission. Therefore, BIE argues it is not appropriate to consider the benefits, or lack thereof, of a WNA with or without a 3% deadband on a tariff provision that does not yet exist and may not be approved.[508]

For the reasons mentioned above, BIE submits that the WNA with the 3% deadband is a reasonable provision because it serves to protect both the Company and customers

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505 Columbia Statement No. 3-R at 4.

506 Columbia Statement No. 3-R at 4-7.

507 I&E Statement No. 3-SR at 6-7.

508 I&E Statement No. 3-SR at 8.

from the effects of abnormal weather, which cannot be predicted or controlled. Therefore, BIE recommends that the 3% deadband be made a permanent part of the Company's WNA.

c) Revenue Normalization Adjustment

BIE explains an RNA is a tariff provision that is "designed to 'break the link' between residential non-gas revenue received by the Company and gas consumed by non-CAP residential customers."[509] In other words, the Company proposes to stabilize its revenue level received from customers by enacting a "benchmark distribution revenue level" and adjusting revenues to that point regardless of actual usage levels.[510] The Company is proposing to apply an RNA to its non-CAP residential customers[511] and set the benchmark distribution revenue levels by month for the peak period (October through March) and off-peak period (April through September) separately, based on the revenue requirement approved in the present proceeding.[512]

BIE recommends the Commission deny the Company's proposal to use RNA for two reasons. First, through Act 11 and the FPFTY, the Company is permitted to build into its revenue requirement an adjustment for revenue lost due to a decline in usage that is projected to occur after rates go into effect. Second, the purpose of revenue stabilization is to remove the inherent risk of not recovering the full amount of revenue requirement allowed by the Commission due to changes in usage. Between the frequent base rate cases filed by Columbia, staying out no more than two years, the FPFTY, the DSIC, and the WNA, the Company has failed to demonstrate a need for even more revenue stabilization measures. Additionally, the Company has not shown the RNA will result in fewer base rate increases, thus removing any benefit from the residential customers.[513]

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[509] Columbia Statement No. 3 at 20.

[510] I&E Statement No. 3 at 10.

[511] Columbia Statement No. 3 at 20.

[512] Columbia Statement No. 3 at 20-22.

[513] I&E Statement No. 3 at 11.

BIE opines an RNA can actually cause harm to customers because, for customers to benefit from the RNA, they would need to use more gas to trigger the refund, which usage is contrary to conservation efforts. Customers who undertake conservation efforts will see their savings eroded and their investment payback time increase as the Company is permitted to increase rates in response to usage declines. Further, customers who lack the financial means to undertake conservation efforts will be penalized by the RNA, which increases rates to address usage reductions. While the adjustment applies only to non-CAP residential customers, there are potentially many customers whose ability to pay may be compromised as their rates increase to address conservation efforts undertaken by more affluent customers.[514]

BIE asserts the Company's examples shows the RNA in general is less beneficial to customers than it is to the Company. BIE argues that for all residential customers, the credit received for higher usage is mitigated by the increase to their bills due to the commodity cost. However, the Company experiences no such offset when collecting extra revenue under the RNA during times of declining usage. This result shows that the RNA is unfairly tilted in favor of the Company at the expense of the customers.[515] BIE acknowledges that while there are other reasons that could cause usage to increase, a large reason for the decline in the usage of gas that the natural gas industry has experienced in recent years is due to conservation efforts. BIE points out RNA adjustments are calculated on a class-wide basis and are not customer specific.[516] Therefore, while the example of a customer deciding to work from home may apply in this case due to the COVID-19 pandemic, BIE contends there is no evidence of how long that situation will last. Furthermore, BIE argues Columbia failed to provide any evidence to support its assumption that large sections of residential customers are deciding to work from home long-term and, thus, would not be a class-wide factor of increasing usage.[517]

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[514] I&E Statement No. 3 at 11-12.

[515] I&E Statement No. 1-SR at 11.

[516] Columbia Statement No. 3-R at 9.

[517] I&E Statement No. 3-SR at 11.

BIE also points out two flaws in the Company's argument. First, if the RNA is simply doing what the normal rate case process does without the benefit of less frequent base rate cases, then there is no need for the RNA as the Company's rates will continue to be adjusted every year or two, which has been the Company's pattern of rate case filing. Second, BIE disagrees with the example provided by Columbia witness Bell regarding conservation savings (shown below) allegedly showing that the payback time would not increase.[518]

BIE provided a schedule to show two hypothetical scenarios involving two RNA rates: Rate A at $0.25 per Dth and Rate B at $0.75 per Dth. The conservation savings without an RNA, with Rate A, and Rate B generated by a furnace replacement, attic insulation, and wall insulation are shown below.[519]

Table 3-SR-1				
	Furnace Replaced	Attic Insulation	Wall Insulation	Total
No RNA Savings	$175.17	$122.19	$173.01	$470.37
Rate A	$17.46	$18.69	$17.51	$10.64
Rate A Savings	$157.71	$103.50	$155.50	$459.73
% of Total Savings	90%	85%	90%	98%
Rate B	$52.38	$56.06	$52.53	$31.91
Rate B Savings	$122.79	$66.13	$120.48	$438.46
% of Total Savings	70%	54%	70%	93%

BIE explains that this table clearly shows the customer who installs the furnace replacement would have their savings reduced to 90% of the no-RNA savings under RNA Rate A and 70% of the no-RNA savings under Rate B. With the customer saving less through their investment in conservation efforts each year after the first, the time it takes for the customer to recover their investment will take longer. Therefore, the Company's examples and assertions are incorrect.[520] BIE argues Columbia's RNA proposal is not in the public interest as the

518 I&E Statement No. 3-SR at 12.

519 Columbia Exhibit MJB-1R, columns 9-12, lines 13-19.

520 I&E Statement No. 3-SR at 13.

Company's RNA proposal shows little to no benefit to Columbia's customers and may even have potential to harm them.

For those reasons and the reasons discussed above, BIE continues to recommend the Company's proposal to use RNA be denied.

ii. Small C&I Customer Rate Design

BIE did not address small C&I customer rate design.

iii. Large C&I Customer Rate Design

BIE did not address large C&I customer rate design.

iv. Gas Procurement Charge Rider

BIE did not address the gas procurement charge rider.

e. Bill Impacts

BIE points out Columbia provided, in its filing, that an average customer using 70 therms would increase from $89.13 per month at current rates to $104.80 at the proposed rate, which would be a 17.58% increase.[521] At the same usage, BIE forecasts the average residential bill applying all of BIE's recommendations would increase to $101.17, or by 13.51%. It is important to note that BIE's projected average residential bill may be impacted by the cost of service study, scale back, and rate design.

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[521] Columbia Exhibit 111, Schedule 6 at 1.

3. OCA's Position

a. Introduction

OCA recommends the Commission should leave Columbia's existing tariff in place, unchanged, during this continuing worldwide pandemic, particularly since the hearing record shows Columbia's near-term financial outlook is stable without any increase in current revenues. OCA argues granting Columbia a revenue increase at this time would increase shareholder wealth at the expense of Columbia's struggling customers, which outcome would be unfair and unreasonable, due to the real economic hard Columbia's customers currently suffer due to the COVID-19 pandemic, when unemployment numbers are close to record-highs and the economic effects of the pandemic will not be fully known for some time. OCA contends Columbia should not receive a revenue increase, and the Commission should not rely on many of Columbia's FPFTY projections. OCA St. 4 at 3.

OCA respectfully requests the Commission to deny any rate increase to Columbia at this time because its customers are experiencing substantial economic and personal hardships as a result of the continuing COVID-19 pandemic. OCA contends any rate increase at this time would not result in just and reasonable rates. However, OCA recognizes the Commission may determine some increase is needed. In the alternative, OCA recommends its alternative positions and adjustments should be adopted, and Columbia should only receive a minimal revenue increase at the present time.

OCA also argues, should the Commission decide to approve some increase, that any approved increase should be assigned to each customer class through proportionate system average increases to the base rates applicable for each customer class. In other words, if some minimal increase is warranted at this time it should be applied to each classes' existing base rates with no other tariff changes, and all other existing rates, rules and regulations currently contained in Columbia's tariff would remain as is. Should the Commission decide, however, that this is a "business-as-usual" case and traditional ratemaking methods should be applied, OCA presents the following recommended rate structure.

OCA argues the Commission should reject the allocated cost of service study (COSS) presented by the Company, which was an average of its Customer-Demand Study and its Peak & Average Study, because this average does not represent accurately the costs to serve the various customer classes and has serious flaws. OCA contends its Peak & Average Study reasonably reflects an allocation of distribution mains investment that is more consistent with established Commission precedent and cost-of-service principles for a natural gas distribution company, and should be relied on as a guide to allocate any rate increase in this proceeding.

Specifically, OCA argues Columbia's proposed 40% increase to the Residential customer charge should be rejected because it violates the principles of gradualism and avoidance of rate shock. OCA notes Columbia's current Residential customer charge of $16.75 is the highest in Pennsylvania currently and should remain unchanged.

OCA further argues Columbia's proposed change to its Weather Normalization Adjustment - to remove the 3% deadband - should be rejected. OCA asserts Columbia is one of only two Pennsylvania NGDCs to have a WNA mechanism (PGW is the other), and the current WNA is working as designed. However, OCA asserts, if the Commission eliminates the deadband, the WNA would be triggered by even the slightest variations in temperature, and would result in a WNA that is neither reasonable nor necessary.

OCA recommends the Commission should reject Columbia's proposal to implement a Revenue Normalization Adjustment (RNA) rider because Columbia failed to provide sufficient evidence as to why the RNA is needed or how the RNA would provide any benefits to consumers. Further, OCA contends the Commission should not consider a mechanism such as the RNA in the middle of the COVID-19 pandemic and the uncertainty surrounding future demands for natural gas service.

OCA also asks the Commission to recognize that both the WNA and the RNA are revenue stabilizing mechanisms. Should the Commission decide that either of Columbia's proposals here should be authorized, the Commission must then also make the corresponding downward adjustments to Columbia's authorized return on equity to reflect a lower risk profile

in order to preserve some balance of equities between the Company's shareholders and its customers.

Below are detailed explanations of OCA's position on various rate structure issues, if the Commission decides to approve some increase.[522]

b. Cost of Service

i. Columbia's Proposed Distribution Mains Cost Allocation Methodologies are Seriously Flawed

OCA noted Columbia used an average of two different COSSs with different methodologies to arrive and Columbia's proposed revenue allocation. OCA's witness explained the two different methods used by Columbia, as follows:

> Under the first method, which I will refer to as the Customer-Demand method, the distribution mains investment assigned to each category is allocated to rate class partially based on the number of customers and partially based on the design day demands of the customers in each rate class that are served by each of the categories of distribution mains. Under the second method, which I will refer to as the Peak & Average method, distribution mains investment is allocated 50 percent based on the design day demands and 50 percent based on annual, or average daily, demands of the customers in each rate class that are served by each of the categories of distribution mains.[523]

OCA contends the explanation of the problem and conclusions made by its witness (Mierzwa) are instructive and persuasive:

> Typical of a natural gas distribution company ("NGDC"), a significant percentage of CPA's plant, 65 percent, is comprised of transmission and distribution mains.

[522] For a full description of OCA's position including citations to the record, refer to its Main Brief and Reply Brief.

[523] OCA St. 4 at 6-7.

CPA is sponsoring ACOS Studies in its application using two different methodologies, each at present and proposed rates. Under one method, distribution mains investment is allocated partially based on the number of customers and partially based on design day demands ("Customer-Demand Study"). Under the second method, distribution mains investment is allocated utilizing the Peak and Average method ("Peak & Average Study"). CPA's application also includes a third ACOS study that reflects an average of the Customer-Demand and Peak & Average ACOS Studies ("Average Study"). CPA relies on the Average Study to support its proposed revenue distribution among its various customer classes.

Under each of the Company's ACOS Studies, distribution mains investment has been assigned to one of three categories, and the mains investment assigned to each category has been separately allocated to customer class consistent with the selected ACOS methodology (i.e., either the Customer-Demand or Peak & Average method). CPA's assignment of distribution mains to separate categories is unreasonable, and the Company's ACOS Studies, which rely on the assignment of distribution mains to separate categories, should be rejected.

In addition, the Company's Customer-Demand methodology misallocates distribution mains plant investment and related costs, and this method produces results that do not reasonably reveal an accurate indication of class-allocated cost responsibilities and should be rejected.

The Peak & Average Study presented by the OCA in this proceeding reflects an allocation of distribution mains investment that is more consistent with established Commission precedent and cost-of-service principles.

Columbia's Peak & Average Study produces results consistent with the ACOS Study filed in the most recent base rate proceeding of Columbia Gas of Massachusetts ("CMA"), a CPA affiliate at the time, which relied on the Proportional Responsibility method to allocate distribution mains investment.[524]

524 OCA St. 4 at 3-4.

OCA argues the assignment of distribution mains costs is the most critical component of any COSS and Columbia used two different COSSs to allocate and assign these costs to seven different rate classes, as follows:

- Residential Sales Service and Residential Distribution Service ("RSS/RDS");
- Low-Volume Small General Sales Service, Small Commercial Distribution Service, and Small General Distribution Service ("SGSS1/SCD1/SGDS1");
- High-Volume Small General Sales Service, Small Commercial Distribution Service, and Small General Distribution Service ("SGSS2/SCD2/SGDS2");
- Small Distribution Service and low-volume, Large General Sales Service ("SDS/LGSS");
- Large Distribution Service and high-volume, Large General Sales Service ("LDS/LGSS");
- Main Line Distribution Service ("MLDS"); and
- Flexible Rate Provisions and Negotiated Contract Service ("Flex").[525]

In addition, OCA points out the Company categorized different types of mains, as explained by OCA's witness, which categories of mains were further defined by Columbia, as explained by OCA's witness, below:

> In CPA's ACOS Studies, the Company first identified and directly assigned the actual inventory of distribution mains for the MLDS rate class. Next, the Company assigned the remaining mains investment to one of four categories, including the transmission category and three different distribution categories:
>
> - Low Pressure Distribution;

525 OCA St. 4 at 5-6.

- Regulated Non-Low Pressure Distribution (“Regulated Distribution”); and

- Remaining Regulated Pressure Distribution.

CPA then prepared ACOS Studies utilizing two different methods to allocate the mains investment assigned to each of the three distribution mains categories to rate class (excluding MLDS). Under both methods, transmission mains investment was allocated based on design day demands. Both methods were used to prepare ACOS Studies at present and proposed rates.[526]

Transmission Mains – Mains that do not serve any single customer directly, but rather are designed to serve an entire geographic area. These are the lines that are generally of higher pressure and larger diameter, and transport the gas into CPA’s distribution network. The cost of these mains is allocated to all customers, except the directly assigned MLDS customers.

Low Pressure Mains – Mains that have been identified as only servicing low-pressure customers. These mains are downstream of regulator stations and are, themselves, low-pressure. Due to their pressure, these mains do not serve any customer types other than low-pressure. The cost of these mains is only allocated to low-pressure customers.

Regulated Non-Low Pressure Mains – Mains that, due to their pressure, can serve all customer types except low-pressure customers. These mains can be either high-pressure, intermediate-pressure, or medium-pressure. The cost of these mains is allocated to all customers except for the customers served by the low-pressure mains and the directly assigned MLDS customers.

Remaining Regulated Pressure Mains – Mains that are not specifically assigned to one of the three groups identified above. Rather, they are mains that can either: (1) deliver gas to customers requiring high-pressure, intermediate-pressure, or medium-pressure service; or (2) deliver gas into downstream low-pressure systems and regulated non-low-pressure systems. The cost of these mains is allocated to all customers, except the directly assigned MLDS customers.[527]

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[526] OCA St. 4 at 6.

[527] OCA St. 4 at 7.

OCA argues all costs for the four different categories of mains should be allocated to the different rate classes based on OCA's Peak & Average Study.[528] OCA contends, not only did the Company create two different COSSs to allocate the costs of the mains to the different classes, but Columbia also created four separate categories of mains and assigned specific costs to each category. Although OCA noted it does not challenge the allocation of Transmission Mains, OCA argues the three remaining categories of distribution mains (i.e., Low Pressure Distribution; Regulated Non-Low Pressure Distribution (Regulated Distribution); and Remaining Regulated Pressure Distribution) contain serious flaws in how Columbia created the costs for each of these distribution mains categories. OCA asserts that Columbia's proposed separate assignment and allocation of distribution mains fails to consider the net investment of each distribution mains category. (OCA St. 4 at 8). As explained by OCA's witness, the implications of this flaw are, as follows:

> CPA uses the original cost of its distribution mains investment to develop its allocation factors for the three distribution mains categories. The allocation factors developed by CPA assume that all distribution mains of similar size and type (plastic or steel) cost the same per foot, are of the same vintage, and have the same depreciation expense per foot. This fails to recognize that low-pressure mains are generally older, are more fully depreciated, and that the net investment associated with the low-pressure system is likely less than that of the regulated-pressure system. This is important because rates in this proceeding will be set based on net investment, not original costs.[529]

OCA contends Columbia's failure to identify accurately the net investment costs for the different distribution mains is a serious flaw that runs through both of the COSSs created by the Company. These flaws with either of COSS are amplified by the inputs used, especially for the Low Pressure Distribution mains which almost exclusively serve residential customers, because Columbia based the inputs on the original cost and not the net investment.

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528 OCA noted it does not challenge Columbia's proposed allocation for Transmission Mains because allocating those costs based on OCA's Peak & Average Study does not produce any material difference from the Company's proposed allocation. OCA St. 4 at 8.

529 OCA St. 4 at 8.

OCA further contends it attempted to correct the error by requesting additional information from the Company, but Columbia indicated to OCA the requested information was not available. OCA St. 4 at 9. However, OCA asserts the evidence presented shows that Columbia's low-pressure system is older and more fully depreciated, as OCA's witness explained:

> CPA mains are almost exclusively either plastic or steel (>99 percent). The average in-service date of the Company's plastic mains is 1999, and the average in-service date of the Company's steel mains is 1955. Approximately 53 percent of the low-pressure system consists of steel mains and 47 percent is plastic. For the regulated-pressure system, approximately 26 percent is steel, and 74 percent is plastic. This indicates that the low-pressure system is older and more fully depreciated than the regulated-pressure system.[530]

OCA asserts Columbia significantly overstated the costs of the low-pressure distribution system and these higher costs flow to the two COSSs. By overstating the costs, Columbia makes it appear, incorrectly, that the residential class is currently underpaying the cost to serve. As a result, Columbia then proposes to allocate a larger portion of the proposed rate increase to residential customers based on inputs to these flawed COSSs. Further, OCA argues this flaw is further compounded by the COSSs Columbia used which are also flawed and inconsistent with Commission precedent.

ii. Columbia's Customer Demand Study Fails to Accurately Identify Each Classes' Cost Responsibility for Distribution Mains

OCA contends Columbia created a COSS that uses the Customer Demand method for use in this proceeding, but the Customer Demand method is inconsistent with past Commission precedent and generally accepted principles for NGDCs as to COSSs. As such, OCA argues the Commission should not rely on the Customer Demand method and ultimately the Average Study proposed by Columbia. OCA asserts Columbia used a minimum system approach where the entire distribution mains system is hypothetically comprised of only 2-inch

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[530] OCA St. 4 at 9.

pipe. OCA contends the goal of such a study is to attempt to assign costs based on merely connecting customers to the system, as opposed to assigning costs based on supplying gas to customers – which is how the distribution system actually works on a day-to-day basis. OCA argues this hypothetical construct to allocate cost responsibility is neither realistic nor equitable, because:

> Allocating distribution mains investment on the basis of the number of customers in each class misallocates these costs of providing service. Distribution mains are not sized for the number of customers served from them, but for the loads placed upon them. This is made clear in the following example: Located along one city block are ten Residential customers with a coincident peak demand of one dekatherm ("Dth") each. The distribution main running down the street would have to be capable of delivering 10 Dth at peak. On another city block is only a small plastics factory that exhibits a maximum demand of 10 Dth. The main for that one customer must be sized to deliver 10 Dth when the plastics factory demand peaks. It is clear that the mains investment is driven by the loads placed upon it—not by the number of customers served from it. Finally, imagine that the plastics factory is torn down to make room for five large residences, each of which exhibits a demand at time of coincident peak of 2 Dth. Again, the main that is sized to deliver 10 Dth is adequate. The existence of one customer, five customers, or ten customers does not determine the amount of mains investment; rather, mains investment is a function of the loads to be served.[531]

OCA contends the size of distribution mains and their underlying costs are not driven by numbers of customers, but rather by the loads that those mains must deliver. OCA asserts using a customer component to assign the cost of distribution mains only serves to increase the costs that are then assigned to the residential class, simply because that is the largest class of customers by number. Similarly, assigning the exact same length of mains to each customer in different customer classes is not representative of the actual system, as shown in OCA's Table, which shows the number of feet by which Columbia was required to extend its system to connect its ten largest non-MLDS customers as well as the design day and annual usage of those customers. OCA argues its Table 2 demonstrates that the Company's allocation

[531] OCA St. 4 at 11.

of distribution mains investment based on the number of customers, which assigns the same number of feet of distribution mains to each customer, does not result in a reasonable allocation of costs:

Table 1.
Service and Usage Characteristics of CPA's Ten Largest Non-MLDS Customers

Customer	**Design Day** (Dth)	**Throughput** (Dth)	**Distance** (Ft)
1	10,119	2,831,244	3,106
2	12,080	2,002,712	7,618
3	0	1,099,939	1,479
4	4,085	1,020,792	[1]
5	1,228	801,205	1,178
6	2,502	605,046	4,726
7	1,468	531,350	1,571
8	2,158	525,916	1,294
9	1,633	452,894	1,308
10	2,222	443,556	750

[1] This customer is the only one served off the main. There is no meter upstream.

OCA asserts the Company's reliance on its minimum system study and the inclusion of a customer component is misplaced and points out that under OCA's Peak & Average COSS, residential customers still bear the largest share of distribution mains investment. OCA St. 4-S at 4. OCA notes Columbia criticized OCA for failing to recognize all costs to serve residential customers, further had asserted the Company's minimum system approach accurately captures those costs, and claimed OCA incorrectly assume all residential customer demands can be met through the minimum system.

OCA points out that Columbia's criticism is baseless and without merit using Columbia's own evidence from Columbia's 2015 base rate proceeding. Specifically, OCA's witness testified that:

> In Columbia's 2015 base rate proceeding at Docket No. R-2015-2468056, Company witness Mark P. Balmert performed an

> analysis that found that the 2-inch minimum system would be capable of serving all Residential customers with an annual demand of 1,165.4 Mcf per year or less. He noted that virtually all Residential customers use less than 1,165.4 Mcf per year. Therefore, Mr. Balmert concluded that all Residential customers could be served by the minimum system. The average Residential customer uses 86 Mcf per year, and certainly the share of Residential customers using less than 1,165.4 Mcf per year is greater than the share in other rate classes. For example, the average usage per customer for the LDS/LGSS rate class is 152,672 Mcf per year and for the SDS/LGSS rate class average usage is 15,466 Mcf per year. Therefore, the proportionate share of demands being met by the minimum system for Residential customers is much greater than that of other rate classes.
>
> …
>
> Although I disagree with the use of a minimum system approach to the allocation of distribution mains, if this approach is used and the 2-inch minimum system can meet 100 percent of the Residential customer design day demands, the allocation of the demand component of distribution mains investment must be adjusted to account for the portion of the minimum system that can meet Residential customer design day demands. Columbia's Customer/Demand Study fails to do this.[532]

OCA states its Columbia's own study, using the minimum system approach, as well as Columbia's witness Notestone's testimony, which conclusively establish OCA's contention in the current matter is indeed correct and Columbia's current position should be afforded little weight in this proceeding. Columbia's current use of a minimum system approach and its inclusion of a customer component leads to the serious flaws contained in its proposed COSSs.

OCA contends both a leading academic treatise on public utility rates[533] and the Commission's decision in Philadelphia Gas Works, Docket No. R-00061931, 2007 Pa. PUC

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532 OCA St. 4-S at 5-6.

533 See *Principles of Public Utility Rates*, James Cummings Bonbright, Public Utilities Reports, Inc., 1988, specifically at pages 491 and 492, wherein, utilizing an example from the electric industry, Professor Bonbright states 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. For it makes no allowance for the density factor (customers per linear mile or per square mile). Indeed, if the Company's entire service area stays fixed, an increase in number of customers does not necessarily betoken any increase whatever in the costs of a minimum-sized distribution system."

Lexis 46 (2007), found there is no legitimate reason to assign costs for a distribution system based on the number of customers.

OCA contends the Demand portion of Columbia's COSS assigns much too large a portion of mains costs based on design day peak demands. As explained by OCA's witness:

> The design day demands utilized in CPA's Customer-Demand ACOS Studies are based on a day with a 1-in-15 probability of occurrence. If an allocation of distribution mains costs on the basis of design peak day demands was in accordance with the principle of cost causality, then the demand for natural gas under design peak day weather conditions would have to be the only cause for the existence of and customer utilization of CPA's distribution mains. Design peak day demands represent the maximum demands that are expected under the most severe weather assumptions used for planning purposes. While a portion of CPA's distribution mains costs are associated with, and should be allocated on, design peak demands, it is obviously wrong to profess that most distribution mains costs are caused by consumer demands on the coldest day experienced in CPA's service territory every 15 years or so. Quite simply, if CPA's customers had a demand for gas only on days that occur every 15 years, there would not be a CPA gas distribution system. The costs of delivered gas supplies on that one design peak day would be prohibitively high, and the cost of delivering gas through CPA's distribution system on that one day simply could not compete with alternative energy costs.[534]

OCA acknowledges Columbia's system must be able to meet design day demands even if that scenario only presents itself every 15 years or so, yet OCA argues the real usefulness of a natural gas system is to deliver average, annual demands every day of the year. OCA asserts the reason for NGDCs to exist and for why NGDCs invest in distribution systems is to meet the annual demands for gas by end-use customers. As OCA witness Mierzwa described (in OCA St 4 at 18), "[w]ithout sufficient annual gas usage by which to amortize the annual costs of providing service, there would be no gas distribution system."

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534 OCA St. 4 at 17-18 (footnotes omitted).

OCA insists Columbia's Customer Demand COSS assigns too large a portion of mains costs to design day peak demands and, while peak demands must be recognized, OCA argues the COSS must also recognize the average demands placed on the system every day and the costs involved with providing for those average demands. About those costs, OCA's witness testified that:

> Many of the costs associated with the distribution delivery system do not depend upon pipe sizes. These costs would include planning, surveying, excavation, hauling, pipe bed preparation, unloading and stringing of pipe, municipal inspection, backfill, and pavement and sidewalk replacement. Since a portion of total costs does not vary with pipe size, or are fixed costs, total costs do not increase at a 1-to-1 ratio with increases in maximum demands. The additional costs associated with meeting elevated demands are largely related to the cost of the pipe itself.
>
> Moreover, throughput capability increases not at a 1-to-1 ratio with the size of the pipe, but at a rate equal to the square of pipe diameter. Doubling the diameter of a pipe, for example, increases its capacity by four times the original capacity. Thus, the additional costs of providing additional capacity are lower than the average costs of providing capacity. This means that the costs associated with providing capacity for the movement of average demands are greater on a unit basis than the costs associated with providing capacity for additional demands.[535]

Columbia's Customer Demand COSS fails to sufficiently account for the average demands placed on the system and the costs associated with these average demands. As a result, OCA contends the Peak & Average method more closely follows not only how the system actually works but also the principles of cost-causality, on the following basis:

> The allocation of mains investment costs on the basis of both annual and peak demands is in accordance with the principle of allocating costs on the basis of cost causality. Natural gas is of little to no value to the customer if that gas cannot be delivered to the location of the gas-burning equipment. CPA's distribution system imparts locational value to the natural gas delivered across that system by allowing for the movement of that gas from its acquisition source to each customer's location. CPA's distribution

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[535] OCA St. 4 at 21.

> system exists, and related costs are incurred, to deliver gas to its customers whenever, over the course of each year, its customers demand gas. In other words, CPA's system was built, and costs were incurred to deliver gas; both at the time of peak system demand and generally throughout the year. Because costs are incurred to deliver gas generally throughout the year, and additional costs are incurred to meet peak demands, CPA's distribution mains costs must be allocated on the basis of both annual and peak demands if those costs are to be allocated in accordance with the principle of cost causality.

OCA St. 4 at 19.

Accordingly, for all the reasons discussed, OCA recommends the Commission find Columbia's Customer Demand COSS contains serious flaws and should not be used in any form to allocate the cost of distribution mains in this matter. In addition, OCA recommends the Commission find that Columbia's Peak & Average COSS, also created by Columbia for this proceeding, shares some of the same flaws as its Customer Demand COSS. In the alternative, OCA requests the Commission use OCA's Peak and Average COSS as a guide to cost allocation.

iii. OCA's Peak and Average COSS should be used as a guide to Cost Allocation as Columbia's Peak and Average COSS is flawed

OCA contends the Commission should use its Peak & Average COSS as a guide to cost allocation in this proceeding and specifically recommends 50 percent of Columbia's distribution mains system costs be allocated on the basis of peak demands instead of a lesser amount. The remaining 50 percent of CPA's distribution mains costs, being related to, or caused by, CPA's annual gas requirements, should be allocated on annual, or average, demands. OCA notes the Commission previously approved the Peak & Average method, as discussed in the 1994 NFG case:

> 'The Peak & Average method that allocates mains equally is a sound and reasonable method of cost allocation and should remain intact.' *Pa. P.U.C. v. National Fuel Gas Distribution Co.*, 83 Pa. PUC 262, 360 (1994). *See also Pa. P.U.C. v. National*

> *Fuel Gas Distribution Co.*, 73 Pa. PUC 552 (1990); *Pa. P.U.C. v. Equitable Gas Co.*, 73 Pa. PUC 301 (1990); and *Pa. P.U.C. v. CPA Gas Co.*, 69 Pa. PUC 138 (1989).[536]

OCA also noted a 2006 case[537] from the Indiana Commission, which supported the Peak & Average method, as well as an Illinois Commission decision[538] in 2003, which also accepted the Peak & Average method. OCA contends the Peak & Average method is a preferred methodology for allocating the costs of natural gas distribution mains. OCA notes BIE agreed with OCA that Columbia's Customer Demand COSS should be rejected due to its inclusion of a customer component, although OCA acknowledges BIE endorses Columbia's Peak & Average COSS for use in this proceeding. OCA also noted OSBA took issue with the use of OCA's Peak & Average COSS, instead favoring the use of a modified version of Columbia's Customer Demand and Peak & Average COSSs.

OCA presented the results of its Peak & Average ACOS Study in Table 5, in Schedule JDM-1, asserting the study:

> eliminates the separate assignment of distribution mains to categories and assigns the costs associated with major account representatives to the appropriate classes. This study provides a reasonable indication of the cost of service for each rate class. Table 2 provides a summary of the OCA's Peak & Average Study at present rates.[539]

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[536] OCA St. 4 at 25.

[537] *In re Citizens Gas & Coke Utility*, IURC Cause No. 42767 at 74-75 (Oct. 19, 2006).

[538] *Central Ill. Pub. Service Co. Proposed General Increase in Natural Gas Rates,* 2003 Ill. PUC Lexis 824, 231-232 (2003).

[539] OCA St. 4 at 29-30.

Table 2.
Class Rates of Return OCA Peak & Average ACOS Study Results at Present Rates

Class	Rate of Return	Index
RSS/RDS	6.506%	1.34
SGSS1/SCD1/SGDS1	4.760	0.98
SGSS2/SCD2/SGDS2	5.408	1.11
SDS/LGSS	4.107	0.85
LDS/LGSS	0.228	0.05
MLDS	79.321	16.33
FLEX	(4.406)	(0.91)
Overall:	**4.857%**	**1.00**

OCA asserts Table 5 shows OCA corrected the errors in Columbia's Study to show the Residential class with an Index value of 1.34 at present rates as compared to 1.29 under the Company's Study. OCA argues that, using the preferred Peak & Average method, under either the Company's or the OCA's COSS, it is clear that prior to any revenue increase in this matter the Residential class is currently overpaying its cost of service.

OCA points out its witness Mierzwa also created a separate COSS to use as a check on the results of OCA's Peak & Average COSS using an ACOS study allocating mains investment using the Proportional Responsibility (PR) method to further support the reasonableness of the results of the ACOS study prepared using the Peak & Average method. Witness Meirzwa noted that the ACOS study used by Columbia's sister company, Columbia Gas of Massachusetts in its most recent base rate proceeding used the same PR method. Witness Mierzwa explained the PR method produces results that are very similar to OCA's Peak & Average COSS, and explained that:

> Under the PR method, distribution mains investment is allocated to customer class on the basis of PR allocators. The PR method recognizes that capacity on the distribution system has some value each month throughout the year, although that value is diminished in the summer months when demands are much lower.[540]

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[540] OCA St. 4 at 30-31.

OCA's witness testified the PR method provided the following results:

Table 3.
CPA Class Rates of Return Proportional Responsibility ACOS Study at Present Rates

Class	Rate of Return	Index
RSS/RDS	7.000%	1.44
SGSS1/SCD1/SGDS1	5.516	1.14
SGSS2/SCD2/SGDS2	5.804	1.19
SDS/LGSS	3.446	0.71
LDS/LGSS	(0.803)	(0.17)
MLDS	79.321	16.33
FLEX	(4.712)	(0.97)
Overall:	**4.857%**	**1.00**

OCA St. 4 at 33.

iv. Conclusion

OCA recommends the Commission find that Columbia's Customer Demand COSS contains serious flaws that make it unsuitable for use in this proceeding, and that Columbia's Peak & Average COSS, although the preferred method, contains flaws that compromise the reliability of the results produced. OCA asks the Commission to find that its Peak & Average COSS corrects the errors in Columbia's Study and provides a useful guide for the allocation of distribution mains costs, and the distribution of any revenue increase in this matter

c. Revenue Allocation

i. Proposed Revenue Allocation and Alternatives

OCA asserts the sound allocation of any revenue increase to the various customer classes is driven in large part by the COSS used but other factors come into play, including the following:

- Utilize class cost-of-service study results as a guide;
- Provide stability and predictability of the rates themselves, with a minimum of unexpected changes that are seriously adverse to ratepayers or the utility (gradualism);
- Yield the total revenue requirement;
- Provide for simplicity, certainty, convenience of payment, understandability, public acceptability, and feasibility of application; and
- Reflect fairness in the apportionment of the total cost of service among the various customer classes.[541]

OCA presented Columbia's proposed revenue allocation in its Table 7:

Table 4.
CPA Proposed Revenue Distribution

Class	Present Rates	Proposed Rates	Increase	Percent
RSS/RDS	$292,185,976	$361,423,632	$69,237,656	23.7%
SGSS1/SCD1/SGDS1	33,641,932	42,257,415	8,615,483	25.6
SGSS2/SCD2/SGDS2	38,608,596	48,498,016	9,889,420	25.6
SDS/LGSS	21,768,524	27,490,911	5,722,387	26.3
LDS/LGSS	15,319,132	19,486,797	4,167,665	0.0
MLDS	550,482	550,482	0	0.3
FLEX	4,877,848	4,891,965	14,117	24.0
Total:	**$406,952,490**	**$504,599,218**	**$97,646,728**	**1.00%**[542]

OCA points out that Columbia's proposed revenue allocation is unreasonable because it was guided by the results of its Average Study which did not reasonably reflect the costs of providing service to the various customer classes. OCA St. 4 at 34. OCA argues its Peak & Average COSS should be used to allocate any revenue increase for the following reason:

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541 OCA St. 4 at 34-35.

542 OCA St. 4 at 34.

First, I maintained the Company's proposal for the distribution of the revenue increase to the MLDS and flex classes. As indicated in Table 5, the indicated rates of return at present rates for the SDS/LGSS and LDS/LGSS classes were less than the system average return. I assigned a 1.5 times system average increase to each class. For the SGSS1/SCDS1/SGDS1, and SGSS2/SCD2/SGDS2 classes, I assigned an increase which was 1.25 times the system average increase. This recognizes that at present rates the return for each of these classes is close to the system average return, and provides a contribution to offset the revenue deficiency of the SDS/LGSS and LDS/LGSS classes whose increases were capped at 1.5 times the system average increase. I assigned the remainder of CPA's requested increase to the RSS/RDS class.[543]

In place of Columbia's proposed revenue distribution, OCA presented its own proposal for revenue distribution in the Table 8, below. OCA notes the revenue allocation below using Columbia's full requested revenue increase. OCA points out that, should the Commission authorize an increase that is less than the full amount requested by Columbia, then OCA's proposed revenue allocation should proportionately scale back the increase for each rate class.[544]

Table 5.
OCA Proposed Revenue Distribution

Class	Present Rates	Proposed Rates	Increase	Percent	Index
RSS/RDS	$292,185,976	$354,799,715	$62,613,739	21.4%	1.24
SGSS1/SCD1/SGDS1	33,641,932	43,732,252	10,090,320	30.0	1.05
SGSS2/SCD2/SGDS2	38,608,596	50,188,581	11,579,985	30.0	1.10
SDS/LGSS	21,768,524	29,603,438	7,834,914	36.0	0.98
LDS/LGSS	15,319,132	20,832,785	5,513,653	36.0	0.33
MLDS	550,482	550,482	0	0.3	9.94
FLEX	4,877,848	4,891,965	14,117	0.3	(0.55)
Total:	**$406,952,490**	**$504,599,218**	**$97,646,728**	**24.0%**	**1.00**[545]

543 OCA St. 4 at 35-36.

544 OCA St. 4 at 36.

545 OCA St. 4 at 35-36.

OCA submits that, if some minimal increase is warranted at this time, the increase should be applied to each classes' existing base rates with no other tariff changes. OCA notes that under this approach all other existing rates, rules and regulations currently contained in Columbia's tariff would remain as is. *See* OCA St. 4 at 3. Should the Commission decide, however, that this is a "business-as-usual" case and traditional ratemaking methods should be applied, then Mr. Mierzwa's recommended scale-back should be adopted.

ii. Flex Customers

OCA did not brief this issue.

iii. Allocation of Universal Service Costs

a) Introduction

OCA notes the Commission recently amended its CAP Policy Statement and directed the issue of the allocation of cost recovery of universal service costs should be addressed in a base rate proceeding.[546] Pursuant to the changes to the CAP Policy Statement and the language in the *Final CAP Policy Statement Order*, OCA witness Colton and CAUSE-PA witness Miller recommended Columbia change its allocation of its universal service so that those costs are paid by all customer classes rather than just the residential class as Columbia proposes here.[547] OCA pointed out that Columbia Gas witness Tubbs, OSBA witness Knecht, PSU witness James Crist, and CII witness Frank Plank opposed OCA's and CAUSE-PA's proposal to allocate costs to all ratepayers.[548]

OCA submits that universal service charges should be allocated to all ratepayers and between customer classes on a competitively neutral basis. OCA further recommends the

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546 52 Pa.Code § 69.256(b); *see also, Final CAP Policy Statement Order* at 80-97.

547 *See* OCA St. 5 at 28-58; OCA St. 1-S at 2-5, 21-35; CAUSE-PA St. 1 at 38-43; CAUSE-PA St. 1-SR, at 15-21.

548 *See* CPA St. 1-R at 22-26; OSBA St. 1-R at 2-11; PSU St. 1-R at 16-21; CII St. 1-R at 2.

allocation of universal service costs among customer classes should be based on the percentage of revenue provided by each customer class at base rates. OCA St. 5 at 6.

b) The Allocation of Universal Service Costs has been appropriately raised in this proceeding

Initially, OCA notes electric and natural gas universal service costs historically have been allocated to residential customers, but this historic practice is not mandated by the law.[549] OCA points out that, under the Natural Gas Choice and Competition Act, there is no specific requirement that universal service costs be allocated to only residential customers. Sections 2203(6)-(8) of the Public Utility Code establish the statutory requirements for natural gas universal service and energy conservation programs.[550] Section 2203(6) provides, in part:

> After notice and hearings, the commission shall establish for each natural gas distribution company an appropriate nonbypassable, competitively neutral cost-recovery mechanism which is designed to recover fully the natural gas distribution company's universal service and energy conservation costs over the life of these programs.[551]

OCA notes that Section 2203(7) provides the Commission must continue the programs at the "level and nature of the consumers protections, policies and services within its jurisdiction that are in existence as of the effective date of this chapter to assist low-income retail gas customers to afford natural gas services."[552] The statute also requires that universal service programs be appropriately funded to assist low-income customers to be able to afford essential natural gas service. OCA notes that, when the Commission issued its *Final CAP* Policy Statement *Order i*n November 2019, it provided:

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549 The exception to this policy has been Philadelphia Gas Works. PGW recovers approximately 75% of its costs from residential ratepayers. *Final CAP Policy Statement Order* at 26.

550 66 Pa.C.S.A. §§ 2203(6)-(8).

551 OCA notes that 66 Pa.C.S.A. § 2203(10) relates to the establishment of a Universal Service Task Force and does not address cost allocation for natural gas distribution universal service and energy conservation programs.

552 66 Pa.C.S.A. § 2203(7).

> We note there is no statutory or appellate prohibition that limits the recovery of CAP costs, whether specifically calculated or as part of total universal service costs, to funding from the residential class, while not mandatory, is permissible:
>
>> Thus, under *Lloyd*, there is no statutory requirement that the funding for special programs come only from those who benefit from the programs. However, the lack of such a requirement does not mean that funding for special programs must come from those who do not benefit.
>>
>> *MEIUG v. Pa. PUC*, 960 A. 2d. 189, 202 (2008), citing *Lloyd v. Pa. PUC*, 904 A.2d 1010 (Pa. Cmwlth. 2006).[553]

In addition, the Commission provided:

> This Order amends the CAP Policy Statement as indicated in Annex A to address recovery of CAP costs. Consistent with the discussion above, the Commission finds it appropriate to consider recovery of the costs of CAP costs [sic] 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 longer routinely exempt non-residential classes from universal service obligations.[554]

In this proceeding, both OCA and CAUSE-PA recommend the allocation of universal service costs to all customers pursuant to the CAP Policy Statement because, as stated by the Commission in the *Final CAP Policy Statement Order*, "in PGW's 2017 rate case, the Commission noted that recovering universal service costs from all ratepayers does not appear to be a violation of Title 66 or Commission regulations."[555]

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553 *Final CAP Policy Statement Order* at 92-93 (footnotes omitted).

554 *Final CAP Policy Statement Order* at 97.

555 *Final CAP Policy Statement Order* at 98, n.148, *citing Pa. Pub. Util. Comm'n v. PGW*, Docket No. R-2017-2586783, Order at 75 (Order entered Nov. 8, 2017); *see also Final CAP Policy Statement Order* at 94.

Further, OCA notes the Commission did not otherwise limit its holding to PGW. The *Final CAP Policy Statement Order* provided "consistent with the comments of the Low Income Advocates and OCA, the Commission concludes that the General Assembly clearly identified the public purpose of these programs in the Competition Acts by requiring that their costs be 'nonbypassable' when a customer switches energy providers." [556] The Commission further held that "there is no statutory or appellate prohibition that limits the recovery of CAP costs, whether specifically calculated or as part of total universal service costs, to funding from the residential class."[557]

In addition, the Commission's CAP Policy Statement specifically provides that parties may raise the issue of cost allocation in base rate proceedings such as this proceeding. The CAP Policy Statement provides:

> (b) In rate cases, parties may raise the issue of recovery of CAP costs, whether specifically or as part of universal service program costs in general, from all ratepayer classes. No rate class should be considered routinely exempt from CAP and other universal service obligations.[558]

OCA submits, consistent with the *final CAP Policy Statement* and the Commission's Order, the issue of cost allocation of universal service costs has been appropriately raised in this base rate proceeding. For the reasons set forth below, OCA recommends the Commission approve OCA witness Colton's and CAUSE-PA witness Miller's recommendations to allocate the costs of universal services to all ratepayers.

c) The *Final CAP Policy Statement* Order identifies factors to be considered

OCA points out the Commission previously found the "current cost-recovery method for universal services, including CAP costs, is putting a significant burden on residential

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556 *Final CAP Policy Statement Order* at 98-88 (footnotes omitted).

557 *Id.*

558 52 Pa.Code § 69.265(b).

customer bills." *Final CAP Policy Statement Order* at 90. The *Final CAP Policy Statement Order* identified several factors to be considered as a part of the analysis of the allocation of universal service costs, which factors the Commission identified such as "poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service." *Final CAP Policy Statement Order* at 94.

OCA asserts its witness Colton examined these factors and examined two aspects of poverty: (1) those customers at or below 150% of the Federal Poverty Level and (2) "near poor" customers whose incomes are above 150% of the Federal Poverty Level but who still struggle to make ends meet. The first aspect of poverty Mr. Colton examined relates to those customers who are at or below Columbia's CAP income-eligibility maximum. OCA witness Colton testified:

> The process I identify above yields an estimate of 76,847 low-income customers. The Company's report of 22,929 CAP participants (OCA-IV-3(b)) thus indicates that CGPA reaches fewer than 30% of its estimated low-income customer base (29.8%). I identify "low-income" as persons with income at or below 150% of Poverty. According to Census data by zip code, CGPA has 19.1% of its customer base living at or below150% of Poverty. Of those, 5.1% live with income at or below 50% of Poverty, while 11.3% live at or below 100% of Poverty.

OCA St. 5 at 31 (footnote omitted).[559]

The second aspect of poverty Mr. Colton examined involves customers who have income above the maximum income-eligibility for CAP established by the Commission (150% of the Federal Poverty Level [FPL]), but whose income is sufficiently low that they can reasonably be expected to have difficulties paying their utilities bills. OCA St. 5 at 32. OCA witness Colton defined this population of "near-poor" to include households who have income

[559] OCA witness Colton estimated the number of customers who are at or below 150% of the Federal Poverty Level "by multiplying the number of customers for each CGPA zip code (OCA-IV-3) times the percentage of population at the varying population ranges." OCA St. 5 at 31. He then summed "the results for each zip code to obtain the number of customers at each Poverty range for the CGPA service territory as a whole." *Id.*

higher than 150% of the FPL, but lower than 200% of the FPL, and he estimated an additional 8.2% of Columbia's customers lie between 150-200% of the FPL. OCA St. 5 at 32.

OCA witness Colton also examined the vulnerability of these two groups of households. First, he looked at a three-person household with income equal to 150% of the Federal Poverty. The household would have an income of $31,170, and then compared the household to a household that was able to achieve "self-sufficiency" by county. OCA St. 5 at 32-33. He testified:

> Schedule RDC-3 shows both the number and percentage of persons with "near poor" incomes by county served by CGPA. Schedule RDC-3 demonstrates that concerns regarding the "near poor" are likely to be substantial. Of the 16 CGPA counties for which data is reported, two have 10% or more of their population living with incomes between 150% and 200% of Poverty. Seven (7) of CGPA's counties with data reported have 8% or more of their total population with incomes falling into this "near poor" range. The numbers are not small. More than 15,000 persons live with income between 150% to 200% of Poverty simply in the two counties with 10% or more of their population falling into that Poverty range. Nearly 65,000 (n= 64,795) live in the seven counties with 8% or more of their population living with income between 150% and 200% of Poverty.[560]

OCA submits these households are not able to achieve self-sufficiency, but at the same time, they are unable to qualify for any assistance and must pay the costs of the universal service programs. OCA contends the examination by its witness on the impacts of poverty show there are a substantial number of residential customers in Columbia's service territory who are near-poor or who even qualify for CAP but do not participate. These low-income customers must also pay for the costs of the universal service programs. OCA witness Colton concluded:

> The CGPA distributions of population by income below 150% of Poverty nearly exactly match statewide distribution (5.2% below 50%; 11.8% below 100%; 19.5% below 150%; 8.2% between 150 and 20[0]%). For purposes of the PUC's consideration of whether to allocate universal service costs over all customer classes, the

560 OCA St. 5 at 33, Sch. RDC-3 (footnotes omitted).

> most important observation here is that nearly 54,000 customers with income at or below 150% of Poverty (n= 53,918) do not participate in CAP notwithstanding their low-income status. In addition, 33,124 *more* customers live with incomes that are above the income-eligibility maximum of 150% of Poverty, but less than 200% of Poverty. Allocating universal service costs over all customer classes would help improve the affordability of CGPA bills to these nearly 90,000 residential customers (53,918 + 33,124= 87,042) who are reasonably viewed as income-challenged but not participating in, or not eligible for, CGPA's universal service programs.

OCA St. 5 at 33-34.

OCA strongly disagrees with the Company's contention that universal service costs represent "a cost that is caused by one class [which] should [not] be shifted to other classes." CPA St. 1-R at 36. OCA argues this contention - that only residential ratepayers "cause" universal service costs – has no supporting data or analysis, is at odds with the extensive research findings presented by OCA and is at direct odds with the findings of the PUC's *Final CAP Policy Statement Order* which stated "[t]he Commission agrees that poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just "residential class" problems. Further, helping low-income families maintain utility service and remain in their homes is also a benefit to the economic climate of a community."[561]

OCA contends the Company's unsupported assertion places a substantial burden upon low-income residential customers and recommend allocating universal service costs to all customer classes to improve affordability for these customers.

d) Poverty is not just a residential class problem

OCA notes the Commission stated in its *Final CAP Policy Statement Order* that poverty is "not just [a] residential class problem," and OCA submits that the Commission's statement was correct. OCA witness Colton examined the economic factors throughout

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[561] OCA St. 5-S at 4.

Columbia's service territory that contribute to the inability-to-pay of Columbia's low-income customers and notes these factors are not limited to the residential class.[562]

OCA contends the low wages offered by employers affect the participation of customers in Columbia's universal service programs because its witness found that "according to CGPA's data, its CAP participation includes a substantial proportion of participants who are eligible [for CAP] notwithstanding the fact that they receive wage or salary income."[563] OCA contends only "a very small proportion of CGPA's 20,000+ CAP participants have income from public assistance only," as testified to by its witness who stated:

> CGPA was further able to provide the average income of CAP participants who received only wages or salaries as their income source. As the Table immediately below shows, CAP participants with annual income at or below 50% of Poverty are earning roughly $8,000 despite having wage and salary income. CAP participants with annual income between 50% and 100% of Poverty are earning substantially less than $20,000 despite having wage income.

Table 8. CAP Participants by Wage/Salary Income by Poverty Level (OCA-IV-12)

Poverty Level	0-50%	51-100%	101-150%
2018	$8,027.28	$17,792.24	$28,517.87
2019	$8,135.83	$18,239.52	$29,369.11
2020 (YTD)	$8,350.32	$18,452.94	$28,569.23

OCA St. 5 at 34-35.

OCA also noted that its witness found similar observations could be made about LIURP participants because the witness testified he found that between 30% (in 2019) to 43%

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562 OCA St. 5 at 34.

563 OCA St. 5 at 34, Table 7.

(in 2017) of LIURP recipients had employment income while fewer than 2% had received public assistance income.[564] OCA points out CAUSE-PA witness Miller agrees that "many universal service program participants are employed – yet their employers do not pay a living wage that is adequate to afford basic household needs."[565] Accordingly, OCA submits the lack of a living wage contributes to the need for the universal service programs.

OCA points out its witness examined the underlying economics within Columbia's service territory even though Columbia Gas has not engaged in a similar study about the economic health of its own service territory. OCA St. 5 at 36-39.[566] Mr. Colton examined wages in the following areas of Columbia's service territory: Chambersburg/Waynesboro; Gettysburg; Pittsburgh; State College; and York-Hanover. He also examined the wage data for Western Pennsylvania non-metropolitan areas and South Pennsylvania non-metropolitan areas. OCA St. 5 at 37.

Based on the examination done by its witness, OCA contends low wages are prevalent throughout Columbia's service territory, and the inability-to-pay issues addressed by the Company's universal service programs are not "caused" by the residential class but are, instead, broader societal issues that can be attributed to every customer class. OCA St. 5 at 37.

OCA asserts low wages contribute to the need for customers to participate in low-income programs and agrees with the Commission that poverty is a broad-based social problem not associated with any particular customer class, including specifically not being associated with the residential class exclusively. In addition, OCA contends its witness found a substantial number of wage-earning customers participate in Columbia's universal service programs but are working at poverty wages. OCA St. 5 at 39.

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[564] OCA St. 5 at 36.

[565] CAUSE-PA St. 1 at 40.

[566] Mr. Colton notes that the employment and wage data he relied upon predates the COVID-19 health problem. OCA St. 5 at 37.

OCA contends its witness' analysis showed the *Final CAP Policy Statement Order* was correct to state poverty is not just a residential class problem. The economic factors of Columbia's service territory contribute as a factor to the poverty problem. Low wages paid by employers also contribute to the problem of the inability-to-pay for utility service.

e) Universal Service Programs provide an economic benefit to businesses

OCA submits that universal service programs help to mitigate the costs of natural gas for customers but the programs also have a much more broad-reaching impact and benefit businesses by helping to alleviate financial stressors for customers, so that employees can be more productive. As OCA witness testified:

> Any increase in natural gas costs from payment of universal service costs would be offset by increases in employee productivity. Poverty produces ill-prepared workers whose lives are easily disrupted by small catastrophes. If the car breaks down, if a child gets sick, it suddenly becomes impossible to be a reliable worker. Poverty also generates poor health among workers, making them less reliable still and raising the cost of employing them. Paying a small increase in costs to help generate these offsetting benefits is a reasonable investment for a business to make.[567]

OCA submits the universal service programs support the overall competitiveness of Pennsylvania's economy. OCA points to studies by the U.S. Chamber of Commerce, the National Association of Manufacturers and the Brooking Institution Center on Urban and Metropolitan Policy which showed universal service programs support economic development. OCA points to the results of a U.S. Chamber of Commerce and the National Association of Manufacturers' 2004 study which stated:

> In fact, employers have good reason to be concerned that large numbers of working people with low family incomes do not take advantage of the public benefits intended to help them and their families achieve economic sufficiency – benefits that also help

[567] OCA St. 5 at 40.

> employers by contributing to the economic stability of their workforces. These public benefits bolster the ability of low-income workers to meet their basic needs, in effect providing a wage supplement to employees.[568]

OCA contends home energy affordability programs help to address utility payment problems, but they also help "address trends toward housing abandonment, reductions in educational attainment, and adverse health outcomes for payment-troubled utility customers." OCA St. 5 at 42 (footnotes omitted). Specifically, OCA notes through its witness that universal service programs help to control the need to provide local government services (a cost borne primarily by non-residential taxpayers) and provides benefits by mitigating the need to provide government services for this as well as counter-acting the direct connection between unaffordable home energy bills and the costs of providing public health services as well as the connection between unaffordable home energy bills and public safety costs. OCA asserts these benefits are felt by all taxpayers, including commercial and industrial entities. OCA St. 5 at 42-43.

OCA contends financial stress impacts the overall productivity of workers, and universal services operate to make a customer's bill more affordable helping to address that stress. OCA notes a 2014 study by the Consumer Financial Protection Bureau (CFPB) that found "even when the economy was booming, financial stress was sapping the productivity and hurting the health of American workers." OCA St. 5 at 43. OCA submits that these costs to employers can be substantial, and financial stress can lead to increased health care costs for the employer. OCA St. 5 at 44-45. In fact, the CFPB report cited by OCA found an increase in health care costs is one of the most cited costs imposed on employers due to financial stress. In addition, financial stress can adversely impact employers through absenteeism and presenteeism. OCA St. 5 at 46. OCA submits its witness' analysis demonstrates that, in industry circles, employee financial problems impact the employer. Specifically, OCA's witness references a report by the Society for Human Resource Management (SHRM) that "when employees are stressed financially, their health and productivity can both suffer." Further SHRM found 48 percent of human resource managers report workers are struggling and stressed over "covering

[568] OCA St. 5 at 40-41 (footnote omitted).

basic living expenses;" 60% of employers indicate personal financial issues affect their "workers inability to focus at work" and 34% report such issues result in "absenteeism and tardiness."[569]

OCA submits that low-income programs, like Columbia's CAP, contribute to economic development and provide substantive benefits to all customer classes in addition to contributing to the available income within the low-income population that can then be spent in the retail economy on items such as food and clothing. OCA St. 5 at 48. Further, CAP programs help to drive additional job creation, income generation, and economic activity. OCA St. 5 at 48. OCA cites to a study prepared by Entergy Service Corporation, a major electric utility serving the Middle South, which study found that a low-income rate affordability program would be a significant generator of jobs, economic activity, and income throughout the region. The Entergy study found that the "distribution of energy assistance creates economic activity through the direct delivery of benefit dollars" but in addition, the delivery of energy assistance frees up household dollars - that would have been devoted to the costs arising from the payment and behavior consequences of energy bill unaffordability – that instead can be spent (and circulated) in the local economy. OCA St. 5 at 48-49.

OCA argues "increasing employee productivity directly contributes to the increased profitability of firms." In particular with low-wage employees, OCA's witness opines that "unaffordable home energy directly contributes to lowered productivity. Increased personal illness, increased employee turnover, and increased family care responsibilities are but three of the factors contributing to lower employee productivity. The provision of affordable energy through universal service programs such as CAP positively affects each of these productivity factors." OCA St. 5 at 50.

OCA's witness examined the impacts of the COVID-19 pandemic on businesses and considered whether the pandemic changed his opinions on the impacts of universal services on businesses. OCA St. 5 at 51. Mr. Colton testified:

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[569] OCA St. 5 at 47-48 (footnotes omitted).

> There is no question but that businesses in Pennsylvania are being adversely affected by the COVID-19 pandemic. Many businesses have been ordered to close, or to substantially curtail, their operations during this time of public health emergency. However, residential customers are also impacted by the economic difficulties but still are responsible for universal service costs. Many of the residential customers paying the costs of the program are also low-income or near poverty and experiencing a similar economic impact that businesses are experiencing. The economic difficulties faced by business during this health emergency is not reason, unto itself, to decline to allocate universal service costs amongst all customer classes for all the reasons I have outlined above.[570]

OCA submits that universal service programs benefit businesses. The programs are often provided to low wage earners, help to address the financial stressors that impact overall employee productivity for these low wage earners and help to support the local economies of the Columbia service territory.

f) The allocation of universal service cost is consistent with sound rate-making principles

OCA submits that the allocation of universal service costs is consistent with sound ratemaking principles. OCA asserts that, since a well-accepted tenet of utility ratemaking is that certain expenses incurred by the public utility are for "public goods," the costs of Columbia's universal service program should be considered a "public good" and allocated across all customer classes. OCA contends all customers receive benefits from public goods and, accordingly, the costs of such goods should be spread over all customer classes. Public goods are those products and services that are valuable to society and classic examples of public goods include streetlights, city roads, and police protection. However, OCA contends public goods are undersupplied when society relies on private markets to provide them. Because they are needed and will not be made sufficiently available through private markets, the government must supply public goods. OCA St. 5 at 52.

570 OCA St. 5 at 51.

OCA recommends the Commission adopt the definition of "public good" as articulated by the National Regulatory Research Institute (NRRI):

> A public good can be defined as "any publicly induced or provided collective good" that "arise[s] whenever some segment of the public collectively wants and is prepared to pay for a different bundle of goods and services than the unhampered market will produce." (note omitted). In sharp contrast to the private-good model. . ., the emphasis of the public-good model is on the *total* societal benefits—both direct and indirect—associated with network modernization. As applied to the telecommunications network, the public-good model is based upon the premise that the costs of achieving and supporting a modern, state-of-the-art network infrastructure are ultimately borne by the general body of ratepayers as opposed to limited subsets of customers who exhibit a high demand for specific new services. The public-good model is conducive to establishing social policies which provide for a "supply driven definition" of infrastructure.
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> ….
>
> Under the public-good model, infrastructure investment[s] that are in the "public interest" are mandated by regulatory commissions, which act as surrogates for marketplace forces for the very reason that those forces break down either because of the enormous risks involved [,] because of uncertainty with respect to costs and demand or both, or because of the intangible or unmeasurable society benefits which are not valued by the marketplace. [571]

OCA asks the Commission to consider the following progression with respect to the allocation of universal service costs in this proceeding. First, universal service is a "publicly induced or provided collective good" as described by the NRRI. Second, a "collective good" is one that not all ratepayers would choose to pay for, which the Pennsylvania General Assembly recognized when it mandated a universal service charge should be "nonbypassable" so that ratepayers could not avoid this cost by switching suppliers.[572] Third, consistent with NRRI's

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[571] OCA St. 5 at 53-54 (emphasis in original).

[572] OCA noted the National Association of Attorneys General reached the same conclusion and adopted a resolution at its spring 1998 meeting that endorsed the principles that "system benefit charges which are imposed to support public goods such as…universal service, and low-income assistance should be applied in a competitively-neutral and non-avoidable manner." OCA St. 5 at 55.

statement, the emphasis in the Pennsylvania universal service programs is on "the *total* societal benefits," which include not only the benefits to participating customers, but also "both direct and indirect" benefits. Pennsylvania's CAP programs, as a public good, clearly fit this notion of generating not only direct social benefits, but also a wide range of indirect social benefits to all customer classes. Fourth, universal service as a "public good" has cost allocation implications to it. As NRRI points out, "the costs of achieving and supporting a modern, state-of-the-art network infrastructure are ultimately borne by the general body of ratepayers." While some ratepayer groups would limit the allocation of costs only to those customers who "use" the service of a universal service program, accepting this decision is at fundamental odds with universal service being determined to be a "public good." OCA St. 5 at 53-54.

OCA submits the fact that these public benefits are hard to quantify is one reason why universal service should be found to be a "public good" with costs allocated to all ratepayers, "for the very reason that those [market] forces break down…because of…the intangible or unmeasurable society benefits which are not valued by the marketplace."[573] OCA St. 5 at 54. OCA argued Columbia's argument – that allocation of the costs of a "public good" to all customer classes "looks outside the ratemaking process"[574] – is in itself a departure from the ratemaking norm because Columbia fails to recognize that the "the treatment of the costs of a 'public good' in the ratemaking process is generally to allocate those costs over all customer classes, for all the reasons identified" by the NRRI.[575] OCA St. 5-S at 3, 4.

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573 OCA noted CAUSE-PA witness Miller also agreed universal service costs should be considered a "public good," who noted specifically: "Energy insecurity impacts all customer classes (industry, business, commerce, educational institutions, hospitals, local and state governments, and other residential consumers) in specific and identifiable ways. The responsibility to provide universal access to life-sustaining utility service should be shared by all utility consumers." CAUSE-PA St. 1 at 39.

574 CPA St. 1-R at 25-26.

575 OCA cited to other states which concluded universal service program costs should be allocated to all customers, in Maine, Maryland, New Hampshire, New Jersey, Ohio, Illinois, Colorado and Nevada. OCA St. 5 at 56. These eight states have Percentage Income Payment Programs (PIPPs) and allocate the costs to all customer classes. OCA St. 5 at 56. CAUSE-PA witness Miller also cited to Washington and Oregon as states that allocate the costs to all customer classes. CAUSE-PA St. 1 at 43.

OCA asserts universal service programs should be allocated to all customer classes because the programs are not caused by the residential class, and the residential class is not the only beneficiary of these programs. OCA contends Pennsylvania's universal service programs are directed toward preserving basic home energy service and relieving financial stress about a household's capacity to meet its fundamental household needs on a month-to-month basis and the programs address a societal-wide problem that is not limited to the residential customer class. OCA St. 5 at 57.

OCA recommends Columbia's universal service charges should be allocated between customer classes on a competitively neutral basis with the allocation based on the percentage of revenue provided by each customer class at base rates for three reasons. First, the allocation should reflect that these universal service costs are being treated as distribution-related expenses. Second, many benefits and savings are captured in the distribution component of the base rates. Finally, a cost allocation based on class contribution to total revenues at base rates would be administratively easy to apply.[576]

When explaining the cost impact of its proposed allocation of universal service costs on each customer class, OCA asserts, through its witness, that Columbia's future expenditures are not known or measurable at this time. However, OCA's witness estimated the cost impacts using the past two complete years, when Columbia reported it collected Universal Service Revenues totaling $32,333,857.91 and $29,215,919.18 in 2018 and 2019, respectively. (OCA-IV-17). OCA then presented in its Schedule RDC-4 the distribution of 2018 and 2019 Universal Service Revenues, if this allocation had been in effect for those two years.[577] OCA St. 5 at 58.

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[576] OCA St. 5 at 58. The revenues are identified in the Company's filing at Exhibit 103, Schedule 8, page 11.

[577] OCA notes it is recommending the percentage of allocation, not the dollar allocation, the percentages would change should the Commission determine the dollar of revenue at base rates differ from the assumptions herein.

Accordingly, OCA's proposal would allocate 55.7% of the costs to residential customers and the remaining 44.3% of costs across fourteen of the commercial and industrial customer rate classes.[578]

g) Proposals to allocate the universal service costs to only residential customers should be denied

OCA notes Columbia Gas witness Tubbs, OSBA witness Knecht, PSU witness James Crist, and Columbia Industrial Intervenor Frank Plank presented testimony opposing OCA's and CAUSE-PA's proposal to allocate costs to all ratepayers.[579] OCA contends the Commission's *Final CAP Policy Statement Order* addresses extensively many of these arguments against the allocation of universal service costs to all customer classes and OCA recommends the Commission should allocate the costs of universal service programs to all customer classes, consistent with its *Final CAP Policy Statement Order*.

OCA submits that OSBA's and PSU's arguments[580] are not consistent with the statutory requirements for universal service programs under Sections 2203(6)-(8) of the Public Utility Code.[581] OCA notes that universal service programs are required by the Natural Gas Choice and Competition Act and Pennsylvania has determined already that providing such assistance is a proper utility function, the costs of which should be included in rates. OCA St. 5-S at 26; OCA St. 5-S at 29-30.

In response to both OSBA and PSU's arguments, OCA reiterates what the Commission determined in September 2019: Poverty is a broad-based social problem not associated with any particular customer class, including specifically not being associated with

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[578] OCA witness Colton does not propose to allocate any percentage of costs to the Main Line Distribution Service Class 1 as identified on Schedule RDC-4. OCA St. 5 at Sch. RDC-4.

[579] *See* CPA St. 1-R at 22-26; OSBA St. 1-R at 2-11; PSU St. 1-R at 16-21; CII St. 1-R at 2.

[580] OSBA witness Knecht's Rebuttal Testimony raised the issue of the merits of collecting universal service costs at all through rates and provides two philosophies of providing universal service: a tax model or an insurance model. OSBA St. 1-R at 4-7. Similarly, PSU witness Crist referred to the allocation of universal service costs as a "tax." PSU St. 1-R at 6.

[581] 66 Pa.C.S.A. §§ 2203(6)-(8).

the residential class exclusively. In addition, a substantial number of wage-earning customers participate in Columbia's universal service programs and one reason these wage-earning customers qualify for the universal service program based on their income is because a substantial number of citizens throughout the service territory are working at Poverty wages. (OCA St. 5, at 39; OCA St. 5-S at 23-24).

OCA refers back to the Commission's determinations in the CAP Policy Statement proceeding where, as its witness testified herein:

> In its CAP Policy Statement Order, the Commission agreed that universal service costs cannot be attributed exclusively to the residential class on "cost causation" grounds. The PUC observed that "OCA and the Low Income Advocates contend that the true "cost-causers of universal service programs are the socio-economic conditions that create poverty, note residential ratepayers. In its *1992 Final Report on The Investigation on Uncollectible Balances* at Docket No. I-00900002, BCS also opined that the origins and impacts of energy unaffordability are not limited to residential ratepayers." (2019 CAP Policy Statement Order, at 95). The Commission then said: "The Commission agrees that poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just "residential class" problems. (Id., at 96)(emphasis added).[[582]]

Further, OCA disagrees with CII witness Frank Plank who argued that changing the allocation of low-income program costs would "exacerbate" issues faced by Rate LDS customers at this time. CII St. 1-R at 2. OCA submits these arguments are contrary to the extensive academic research, including the analysis of the Chamber of Commerce, the National Association of Manufacturers and industry groups such as the International Foundation of Employee Benefit Plans and Pricewaterhouse Cooper. *See* OCA St. 5 at 40-41, 46-47; OCA St. 5-S at 21. OCA contends these programs actually benefit large industrial employers by reducing health care costs, improving employee productivity, reducing absenteeism, and reducing turn-over. OCA St. 5-S at 21-22.

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[582] OCA St. 5-S at 31-32.

OCA asserts the *Final CAP Policy Statement Order* appropriately opened the door for the issue of universal service program cost allocation to be addressed in this base rate proceeding and OCA submits the arguments in opposition to allocation of universal service costs should be denied.

h) Conclusion

OCA submits the Commission should adopt the OCA and CAUSE-PA's proposal to allocate the costs of universal service programs to all customers. As the Commission's *Final CAP Policy Statement Order* correctly stated, "poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just "residential class" problems." *Final CAP Policy Statement Order* at 94. Universal service programs benefit all customer classes. For the reasons set forth above, OCA submits that universal service charges should be allocated between customer classes on a competitively neutral basis, and the allocation of universal service costs among customer classes should be based on the percentage of revenue provided by each customer class at base rates.

d. Rate Design

i. Residential Rate Design

OCA contends the Commission should reject Columbia's proposal to increase the residential customer charge from $16.75 to $23.00 (a 40% increase), because the proposal violates the principle of gradualism, significantly expands on a customer charge that is currently the highest in Pennsylvania. OCA argues the time to increase charges - that customers cannot avoid through conservation – is not during a pandemic. Similarly, OCA argues the Commission should reject Columbia's proposed WNA and RNA mechanisms because the mechanisms fail to provide any consumer benefits, are intended for the benefit of Columbia's shareholders, and are unsupported and unnecessary.

a) Residential Customer Charge

i) Columbia's Proposed 40% Increase in the Residential Customer Charge should be Rejected

OCA notes Columbia's existing customer charge of $16.75 is already the highest in the state for NGDCs yet Columbia proposes herein to increase its existing residential customer charge by 40%, from the current $16.75 to $23.00. OCA reiterates that a pandemic is not the time to raise rates on Columbia's customers as they continue to struggle during these unprecedented times. OCA recommends the Commission reject Columbia's proposal because it is a drastic increase in the residential customer charge. OCA witness Mierzwa described Columbia's current and proposed customer charge, as follows:

> CPA's current Residential sales and transportation customer distribution rates consist of a $16.75-per-month customer charge and a single delivery charge of $6.0763 for each Dth of gas delivered. CPA's proposed Residential rate would consist of a $23.00-per-month customer charge and a $7.3323-per-Dth delivery charge. CPA justifies its proposed Residential customer charge as being within a calculated customer cost range of $23.05 to $54.16 and in proportion to the overall percentage increase proposed for the Residential rate class. The $23.05 charge is based on CPA's Customer-Demand Study exclusive of a customer component of distribution mains, while the $54.16 charge is based on CPA's Customer-Demand Study inclusive of a customer component of distribution mains.[583]

OCA points out Columbia's proposed customer charge is based on its Customer Demand COSS which, as OCA has argued in this proceeding, contains serious flaws and should not be relied on as a guide to set rates in this matter. OCA contends there are four reasons why the Commission should reject the proposed increase. First, the proposed Residential customer charge is out of line with the Residential customer charges of other NGDCs in the Commonwealth. Second, the proposed Residential customer charge violates the principle of gradualism. Third, the proposal will have a disproportionate impact on low-income customers.

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583 OCA St. 4 at 36.

Fourth, a high fixed monthly customer charge is inconsistent with the Commission's general goal of fostering energy conservation. OCA St. 4 at 37.

OCA contends Columbia's proposed $23.00 customer charge is not remotely comparable to any other NGDC in Pennsylvania and in support of its position, provided Table 9, which compares the proposed customer charges with the customer charges of other Pennsylvania NGDCs.

Table 6.
Comparison of Residential Customer Charges for Pennsylvania NGDCs[584]

Columbia Gas of Pennsylvania – Proposed	**$23.00**
Columbia Gas of Pennsylvania – Current	**16.75**
Peoples Gas	15.75
UGI Gas	14.60
Peoples Natural Gas	14.50
Philadelphia Gas Works	13.75
National Fuel Gas Company	12.00
PECO Energy Company	11.75

OCA asserts Columbia's proposed $23.00 charge would be well beyond any reasonable level. In addition, OCA submits the Commission should disregard Columbia's countering argument[585] that OCA took too narrow of a focus on the customer charge issue. OCA points out that Columbia has not contested or disputed the fact that its current monthly Residential customer charge is already the highest in Pennsylvania, and though it might attempt to justify its proposed 40% increase to the customer charge, the Company cannot hide from the fact that its *current* charge is already the highest in the state. Company St. 3-R at 18-19.

OCA also contends Columbia's proposed $23.00 customer charge violates the principle of gradualism. OCA points out that gradualism is an important factor in developing a

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[584] OCA St. 4 at 37-38.

[585] Company St. 3-R at 18-19.

sound rate design, provides stability and predictability in rates with a minimum of unexpected changes which are seriously adverse to ratepayers, and gives a sense of historical continuity. In short, gradualism refers to the avoidance of rate shock. OCA argues Columbia's Residential customer charge proposal represents an increase of nearly 40 percent in that rate, is clearly excessive, violates principles of traditional ratemaking, and recommends the Commission avoid approving such a significant increase. OCA St. 4 at 38.

OCA further argues Columbia's proposed substantial increase to a fixed charge is contrary to the Commission's stated goals of energy conservation because, the more revenue collected through a fixed monthly charge, the lower the volumetric charge. The higher the volumetric charge, the greater the incentive to lower usage. OCA St. 4 at 38. OCA disagrees with the Company's response that Nisource's experience in Ohio was that usage per customer decreased in a territory where all base rate charges are collected through a fixed charge. Company St. 3-R at 20-21. OCA asserted in surrebuttal testimony that Columbia's disagreement is not supported by its evidence because, to demonstrate higher customer charges do not reduce customer conservation efforts, Columbia would need to provide a comparison of the decline in usage for two NGDCs with similar size and operating characteristics and different customer charges. OCA St. 4-S at 13-14.

OCA submits Columbia failed to carry its burden to show that increasing the residential customer charge by 40% at this time would result in rates that are just and reasonable. Further, substantially increasing the residential customer charge at this time will impact disproportionally lower income customers who are already suffering disproportionate harm from the COVID-19 pandemic.

ii) Columbia's Proposed $6.25 Increase to the Customer Charge will disproportionately harm Low-Income Customers

OCA submits the Commission should reject the proposed $6.25 increase to the residential customer charge, from $16.75 to $23.00 per month, due to its disproportionate impact on low-income customers. OCA St. 5 at 58-59. OCA noted through its witness, that the size of

the residential customer charge is important to all residential customers because it is an 'unavoidable' fixed monthly charge" and low-income customers, in particular, cannot insulate themselves from the impacts of an increased customer charge. OCA St. 5 at 58-59. OCA points out that Percentage of Bill customers enrolled in CAP, and non-CAP low-income customers will experience the effects of the increased customer charge and will not be able to reduce the impacts of the customer charge increase through conservation. OCA also points out that the total costs of the proposed customer charge increase to low-income customers is nearly equal to the Company's total annual Low Income Home Energy Assistance Program (LIHEAP) grants. Low-income customers are disproportionately low-use customers who cannot otherwise off-set the costs of the proposed increased customer charge. OCA submits, therefore, that the Commission should adopt the recommendations of its witness Mierzwa and should deny Columbia's request to increase the customer charge.

iii) Low-income customers will not be protected from the proposed increase to the customer charge.

OCA asserts Columbia is in error to claim that the majority of CAP customers will experience no impact from the increase to the customer charge and contends low-income customers, including some CAP customers, will not be shielded from the proposed increase to the customer charge because the vast majority of low-income customers are not enrolled in CAP. In fact, OCA's witness determined Columbia's CAP actually "reaches a very small proportion of its confirmed low-income customer base." OCA St. 5 at 59-60.

OCA points out that the Company claimed it confirmed the low-income status of 61,152 customers, while estimating a total low-income population of 101,375, or approximately 60% of its estimated low-income population, but CAP serves less than 23% of Columbia's estimated low-income population. OCA St. 5 at 59-60. As such, OCA claims CAP does not protect the vast majority of low-income customers. OCA's witness explained why CAP customers would not necessarily be protected, and how the Company's statements overlook the impact on Percentage of Bill customers when he testified:

> CGPA has different aspects to its CAP program: the percentage of income component; the average of past payments component; the percentage of bill component; and the minimum payment component. (CAUSE-PA-1-2). According to the Company, its enrollment by program component in December 2019, and in May 2020, was as follows:

Table 7. Percentage of CGPA CAP Enrollment by CAP Program Component (CAUSE-PA-I-2)		
	December 2019	May 2020
Total	20,350	22,411
PIPP	18.7%	18.2%
Average of Payments	11.4%	10.5%
% of Bill	61.2%	61.8%
Minimum Payment	8.8%	9.5%

> As can be seen in this Table, more than three out-of-five CGPA CAP participants participate in the "Percentage of Bill" program component. Through this CAP design, CAP participants pay a percentage of the bill at standard residential rates. If residential rates increase, in other words, the CAP participant's payment will increase correspondingly.[586]

OCA points out that 61% of Columbia's CAP customers - who pay a Percentage of Bill - will not be shielded from the impact of the proposed customer charge increase.

OCA argues, contrary to Columbia's arguments, low-income customers will not be protected from the customer charge increase. OCA notes a significant portion of Columbia's confirmed low-income customers are not enrolled in CAP and will not be shielded from the proposed $6.25 increase and the 61% of CAP customers who are enrolled in the Percentage of Bill program will also receive an impact from the proposed increase to the customer.

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[586] OCA St. 5 at 60-61.

iv) **The proposed increase to the customer charge will harm Columbia's low-income customers.**

OCA points out that, if the Commission approves an increase of $6.25 per month in the fixed customer charge, the increase would add up to $75.00 per year ($6.25/month x 12 months = $75.00) in additional charges which residential customers must pay. OCA asserts that, using the Company's estimated number of low-income customers of 101,375 (USECP, at 33), this increase would amount to unavoidable annual customer charges totaling $7.6 million (101,375 x $75.00 = $7,603,125) to the CGPA's low-income population." OCA St. 5 at 63-64. OCA's witness explained:

> To put this number into context, in program 2018-2019, CGPA customers received $4.655 million in LIHEAP cash grants, while in 2019-2020 program year, they received $4.527 [million] in LIHEAP cash grants. (OCA-IV-5). Just the increase in the fixed customer charge, standing alone, (not the total fixed charge, simply the increase in the fixed charge), in other words, will exceed the total amount of LIHEAP cash grants received by all low-income customers by nearly 70% ($7,603,125/$4,527,711 =1.68).[587]

OCA notes the Company did not address in testimony the characterization by OCA's witness concerning the LIHEAP cash grants or that the proposed increase would exceed the amount of LIHEAP cash grants that low-income customers receive. In addition, OCA points out Columbia did not refute that the proposed fixed customer charge is so substantial that it will exceed the total annual dollars received from LIHEAP cash grants. Moreover, the Company did not refute the additional harms to low-income customers by (1) increasing the depth and breadth of customer arrears; (2) increasing incidence of service disconnections and threat of service disconnections; (3) increasing the Home Energy Insecurity; and (4) reducing the ability of low-income customers to respond to their inability-to-pay through usage reductions. OCA St. 5 at 64-65. OCA submits Columbia is unable to refute the impact that the proposed customer charge increase will have on low-income customers.

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[587] OCA St. 5 at 64.

v) **Low-income customers are disproportionately low-use customers who cannot otherwise off-set the proposed increased customer charge.**

OCA argues low-income customers are disproportionately low-use customers, on average. OCA St. 5 at 65.[588] OCA's witness explained how the proposed $6.25 increase to the customer charge would disproportionately impact low-income customers in that, while "low-income households tend to have less efficient energy consumption than do residential customers generally on a per square foot of housing basis, because they live in much smaller housing units, they tend also to have lower overall natural gas consumption." OCA St. 5 at 66. OCA submits that, with lower consumption and a fixed monthly customer charge, low-income customers do not have the ability to mitigate the proposed rate increase. In addition, OCA's witness found there is a direct correlation between low-income customers and low natural gas usage. The witness relied upon a 2009 Department of Energy (DOE) Residential Energy Consumption Study (RECs Study), which found that as incomes increase, natural gas usage also correspondingly increases. OCA St. 5 at 66, Table 15. OCA witness Colton testified:

> The RECs data clearly shows that natural gas consumption increases as the size of the housing unit increases. The related housing characteristics support this conclusion. Residents of single-family housing have greater consumption than residents of multi-family housing. Renters have lower consumption than do homeowners. And, occupants of homes with more rooms have higher gas consumption than occupants of dwellings with fewer rooms.[589]

OCA notes Columbia did not complete a similar analysis of the relationship between income and usage, nor did it directly address this analysis in testimony. OCA St. 5 at 68.[590] Further, OCA contends the usage of CAP participants cannot be used as a proxy for all

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588 Mr. Colton notes that his testimony is not that all low-income customers are also low-use customers. It is what he states: "disproportionately and on average." OCA St. 5 at 65.

589 OCA St. 5 at 68.

590 OCA notes that as discussed in greater detail below, Company witness Bell briefly rebutted Mr. Colton's conclusions, but she did not present any analysis in support of her statements or response to the analysis presented by OCA witness Colton.

low-income customers. OCA's witness found Percentage of Income CAP participants were unlikely to have low usage and provided a table (Table 18. *See* OCA St. 5 at 69), to show that, assuming an average household size (in 2018) of 2.41 persons (American Community Survey, Table 25010), the annual incomes at 50%, 100%, 120% and 150% of Poverty, and the CGPA bills that would be required at those income levels (7%, 9%) to enroll in CAP. OCA submits Table 18 demonstrates that, to receive a percentage of income discount under CAP, CAP customers would need to use substantially more than average usage. OCA St. 5 at 70.

OCA contends Columbia did not complete any demographic studies of it CAP participants, but OCA's witness completed two demographic analyses. OCA St. 5 at 70. OCA argues these analyses support the assertion that low-income customers use less natural gas than other residential customers. First, OCA asserts its Schedule RDC-5 showed that as housing units increase in Pennsylvania, the average income increased. OCA St. 5 at 70, Sch. RDC-5. Second, OCA asserts its Schedule RDC-6 shows the distribution of Pennsylvania households by income and by the size of the housing unit in which they live, measuring housing unit size by the number of bedrooms in the unit. OCA St. 5 at 71, Sch. RDC-6. Accordingly, OCA argues that the data it presented shows a "higher proportion of lower-income households live in smaller housing units and a higher proportion of higher income households live in larger housing units." OCA St. 5 at 71; *see also*, OCA St. 5 at Sch. RDC-6.

OCA notes its witness performed another analysis using zip codes to confirm that the DOE data applied to the analysis, and the witness determined the DOE data was applicable to the demographics of Columbia's service territory. OCA St. 5 at 72-76. The witness confirmed the applicability of the DOE data using four checks: (1) a comparison of renters by level of income (setting low-income as being at or below $10,000) to housing unit size; (2) a comparison of the zip codes showing the areas with low penetrations of income below $10,000 also had a low penetration of three-room homes;[591] (3) a comparison of the zip codes showing the areas with the high penetrations of households with low-income incomes had the highest penetrations

[591] Low-income households disproportionately live in smaller homes (with 3 rooms or fewer). OCA St. 5 at 73.

of three-room homes; and (4) a comparison of zip codes showing there was a relationship between the physical size of a housing unit (such as single-family detached homes) and higher income status. OCA St. 5 at 73-76.

OCA's witness concluded:

> As income increases, natural gas usage increases. Low-income households, both disproportionately and on average, have lower natural gas usage than higher income households. While low-income households may have less efficient housing on a per square foot basis, that lack of efficiency is more than offset by other characteristics. Low-income households tend to be renters rather than homeowners, with renters using less natural gas. Low-income households tend to live in smaller housing units, with smaller units using less natural gas. Low-income households tend to live in multi-family housing rather than single-family housing, with multi-family housing units using less natural gas. I conclude that the data for CGPA zip codes confirms these DOE observations. CGPA's low-income households tend to live in smaller housing units. CGPA's low-income households tend to live in multi-family (rather than single-family) housing units. And, I conclude, CGPA's low-income households will, both disproportionately and on average, have lower natural gas usage than higher income households.[592]

In other words, OCA submits low-income households are disproportionately, and on average, lower use households, and these low-income households will also be disproportionately harmed by the proposed $6.25 increase in the customer charge. OCA notes the Company did not address these analyses or the DOE study in rebuttal testimony and has not presented any evidence to rebut his detailed analyses. OCA submits it conclusively demonstrated low-income customers are disproportionately low-use customers and would be disproportionately impacted by the proposed customer charge increase. As low-use customers, low-income customers would not have the ability to otherwise avoid the impact of the $6.25 proposed increase to the customer charge. Columbia has been unable to refute the impact the proposed increase will have on low-income, low-use customers.

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592 OCA St. 5 at 76-77.

vi) Conclusion

OCA notes Columbia's existing customer charge of $16.75 is already the highest in the state for NGDCs. OCA argues January 2021 is not the time to be raising rates for Columbia's customers as they continue to struggle during these unprecedented times. Further, lower income customers will be disproportionally impacted by Columbia's proposed substantial customer charge increase.

OCA recommends the Commission reject Columbia's proposal to drastically increase the residential customer charge. Low-income customers cannot insulate themselves from the impacts of the increase to the customer charge. Percentage of Bill customers enrolled in CAP and non-CAP low-income customers will experience the effects of the increased customer charge but will not be able to reduce the impacts of the customer charge increase through conservation. The total costs of the proposed customer charge increase to low-income customers will exceed the Company's total annual LIHEAP grants. Low-income customers are disproportionately, on average, low-use customers who are otherwise unable to mitigate impact of a $6.25 increase to their bills. OCA submits the recommendations of OCA witness Mierzwa should be adopted because of the impact of the increased customer charge on low-income customers.

b) Weather Normalization Adjustment

OCA points out Columbia is one of only two Pennsylvania NGDCs that have a Weather Normalization Adjustment (WNA).[593] The WNA is a revenue-stabilizing mechanism, as it is designed to charge residential customers more when the weather is warmer than normal, and to provide a credit to customers when the weather is colder than normal. Currently, OCA notes there is a 3% deadband in place for activation of the WNA, meaning that slight weather variations from normal conditions do not trigger the WNA. OCA's witness explained the WNA, as follows:

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593 OCA notes Philadelphia Gas Works is the other utility.

> The WNA adjusts a Residential customer's monthly charges to account for differences in usage attributable to variations between actual recorded heating degree days ("HDDs") and normal HDDs during the months of October through May. The WNA provides for the collection of additional revenues from Residential customers when actual HDDs experienced are less than normal HDDs, and provides a revenue credit when actual HDDs experienced are greater than normal HDDs. The formula used to develop the WNA applied to each bill is presented on pages 16-17 of Columbia Statement No. 3.[594]

OCA submit the Commission should deny the Company's proposal to eliminate the 3% deadband because the deadband provides a reasonable balance between the interests of Columbia's shareholders (to stabilize revenue) and the Company's customers for the following reason:

> It is unreasonable to assume that weather and natural gas usage is abnormal if a particular day is only a few HDDs warmer or colder than normal. If the deadband is eliminated, the WNA would be applied if actual weather was only one HDD colder or warmer than normal. An HDD is determined by taking the average of daily high and low temperatures, and daily usage can vary due to factors other than temperature. Therefore, the 3 percent deadband should be maintained to help ensure that the assessment of the WNA is limited to changes in usage attributable to variations in temperature.[595]

OCA contends the Company's argument – that removing the deadband is a benefit for customers (*See* Company St. 3-R at 4-8) – centers only on what happens when the weather is colder than normal and not the opposite, and the proposal would completely eliminate the effects of weather on the Company's revenues. OCA argues the current 3% deadband fairly balances the interests of Columbia's shareholders and its customers.[596] Columbia's attempts

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[594] OCA St. 4 at 39.

[595] OCA St. 4 at 39-40.

[596] OCA noted Philadelphia Gas Works continues to have a 3% deadband on its WNA mechanism, even though that NGDC is a cash-flow utility with no shareholders.

here to further stabilize and potentially increase its revenues under a warmer than normal weather scenario would be unfair to its customers and should be rejected. OCA St. 4-S at 14.

c) Revenue Normalization Adjustment

OCA notes Columbia has proposed a Revenue Normalization Mechanism (RNA) rider for application to the residential class. OCA's witness described the RNS in direct testimony, as follows:

> Under Rider RNA, a benchmark revenue per non-customer assistance program ("CAP") Residential customer ("Benchmark Distribution Revenue per Bill" or "BDRB") would be established through a base rate case proceeding. Through Rider RNA, the Company would collect or refund any variation in non-CAP Residential revenues that differed from the BDRB not due to differences between actual and normal weather. Rider RNA would be calculated and assessed on a total Residential class revenue basis rather than an individual customer revenue basis.[597]

OCA contends the RNA is an alternative ratemaking mechanism, designed to stabilize the Company's revenues and insulate its revenue stream from any changes in the residential class' natural gas usage. In other words, the RNA is effectively a decoupling mechanism that should not be authorized by the Commission for several reasons.

First, Columbia failed to support its proposal. OCA contends Columbia made no reasonable attempt to comply with the Commission's Policy Statement on alternative ratemaking mechanisms wherein the Commission set forth its Statement of Policy, in an Order entered July 18, 2019, in Docket No. M-2015-2518883, with respect to alternative ratemaking methodologies. OCA points out the Commission identified 14 factors it would consider in evaluating an alternative ratemaking mechanism and required a utility proposing an alternative ratemaking mechanism to explain how each of these 14 factors impact the rates of each customer class. The 14 factors are set out in the Policy Statement, at 52 Pa.Code § 69.3302(a). Further, OCA asserts the Policy Statement is also clear that a utility must submit evidence addressing these 14 factors

[597] OCA St. 4 at 40 (footnote omitted).

when it proposes an alternative ratemaking mechanism 52 Pa.Code § 69.3302(b). OCA contends Columbia failed to follow the Commission's guidance as set out in the Policy Statement as to how an alternative ratemaking mechanism should be presented, explained and supported in a base rate proceeding.

OCA noted the Company argued in rebuttal testimony that it "indirectly" addressed some of the 14 factors as set out in the Policy Statement (*See* Company St. 3-R at 23), however, OCA argues the Commission's Statement of Policy clearly requires Columbia to address the 14 factors in its initial filing. Furthermore, OCA contends that "indirectly" addressing the 14 factors in the rebuttal phase severely reduces the ability of the parties, and the Commission, to evaluate Columbia's alternative ratemaking proposal. OCA St. 4-S at 15. OCA argues Columbia's mechanism should have been fully set forth in its case-in-chief, and not merely supplemented at the rebuttal phase of this proceeding.

In addition to failing to address the 14 factors, OCA submits that Columbia's pursuit of an RNA in this case is unreasonable because the current pandemic and with its uncertainty make 2020 a particularly difficult time to consider such a proposal. As explained by its witness:

> The COVID-19 pandemic is another reason Rider RNA should not be approved. There is a great deal of uncertainty concerning the impact of the pandemic on customers and unintended consequences could result. For example, the normal usage of Residential customers could change significantly as a result of the pandemic and customers could be assessed charges for these changes in usage. Alternative ratemaking mechanisms such as Rider RNA need to be accompanied by sufficient consumer protections.[598]

Third, OCA contends the Commission should find the RNA proposal is flawed and lacks critical consumer protections. It asserts there are significant concerns over the RNA proposal beyond the obvious issues surrounding what "normal usage" may look like considering

598 OCA St. 4 at 41.

the vastly changed environment due to the COVID-19 pandemic. To that end, OCA identified five issues:

- The proposed Rider RNA could increase earnings beyond those that the Company would ordinarily be entitled to.
- The proposed Rider RNA unreasonably applies to customers whose usage is relatively constant over time.
- The proposed Rider RNA embodies a take-or-pay pricing policy.
- The proposed Rider RNA inappropriately adjusts rates without considering other changes in total revenues and costs.
- CPA has not demonstrated that its current system of rates and charges result in inadequate revenue stability.[599]

OCA argues Columbia failed to show the RNA rider is needed, reasonable or appropriate. Specifically, OCA points out Columbia's current system of rates and charges, which include fixed monthly customer charges, a Purchased Gas Adjustment mechanism, Rider WNA, and a distribution system improvement charge, provide for revenue stability. OCA asserts Columbia has not demonstrated that these stability measures are inadequate. OCA St. 4 at 44.

Furthermore, OCA contends this proposed RNA should also be reviewed for consistency with the Commission's recent Orders on alternative ratemaking. OCA notes Act 58 of 2013 specifically addresses alternative ratemaking mechanisms.[600] In accordance with Act 58, the Commission issued an *Implementation Order* that set out certain procedures that utilities must follow if seeking Commission approval of an alternative ratemaking mechanism.[601] Specifically, the *Implementation Order* requires additional language on the customer bill inserts to notify customers that an alternative ratemaking mechanism is included as a part of the utility's base rate case. *Implementation Order* at 24-25. OCA points out the actual bill insert Columbia used to notify customers this rate increase request does not appear in the record in this matter.

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[599] OCA St. 4 at 41-42.

[600] 66 Pa.C.S.A. § 1330.

[601] *Implementation of Act 58 of 2018 Alternative Ratemaking for Utilities*, Docket No. M-2018-3003269 (Order entered Apr. 25, 2019) (*Implementation Order*).

OCA asserts Columbia has the burden to show that as to its proposed RNA rider the Company complied with the Commission's directives in the *Implementation Order*.

OCA points out Columbia has the burden of proof to show its proposed RNA is necessary, reasonable, and will result in rates that are just and reasonable. Columbia's filing does not show a notice regarding its RNA proposal. OCA submits the Commission must reject the RNA because Columbia did not follow the Commission's guidance as set out in the Policy Statement for the approval of this alternative ratemaking mechanism.

ii. Small C&I Customer Rate Design

OCA asserts its position on small C&I customer rate design is wholly contained in its position statements on the Cost of Service and Revenue Distribution.

iii. Large C&I Customer Rate Design

OCA asserts its position on large C&I customer rate design is wholly contained in its position statements on the Cost of Service and Revenue Distribution.

iv. Gas Procurement Charge Rider

OCA did not brief or present a position on this issue.

e. Bill Impacts

OCA's recommends the Commission should leave Columbia's existing tariff in place with no revenue increase during the ongoing COVID-19 pandemic. Accordingly, OCA did not calculate the bill impacts from a revenue increase in this matter. However, OCA notes it advocated for the allocation of universal service costs to all other customer classes, recognizing the cost impacts to the other classes can only be estimated at this time. OCA St. 5 at 58. As such, OCA created a chart to show the impacts to the other classes, under OCA's proposed

allocation methodology, using the last two years of data for universal service costs. *See* OCA St. 5 at 58, Schedule RDC-4.

4. OSBA's Position

a. Introduction

OSBA notes Columbia provided three allocated cost of service study methodologies (ACOSSs) in this proceeding,[602] and then Columbia selected two ACOSS's (which produced significantly different results), averaged the results of the two ACOSSs (which produced the "third" ACOSS), and claimed to have based its revenue allocation upon that resulting average. OSBA explains that cost allocation for a gas distribution utility often hinges on the methodologies chosen for the classification and allocation of mains costs, and OSBA notes Columbia has used the approach of submitting two alternative methodologies for many years which represent relatively extreme positions on this issue, and then taking a simple 50/50 average.

OSBA agrees this approach is understandable - given the lack of any consistency among experts on this issue - but it is necessarily arbitrary. Moreover, neither of the two methods used by Columbia, or the average, is consistent with relatively recent Commission precedent. OSBA recommends using an alternative weighting approach that produces results that are historically more consistent with the Commission's approved method, and which are generally consistent with settlement results from the Company's last several base rate cases.

OSBA notes Columbia proposed its rate design at the Company's full revenue request and, at that full revenue request, OSBA concluded the Company's proposed rate design was reasonable. OSBA also pointed out that, when the ALJ and Commission scale back Columbia's revenue request, the rate increases should also be scaled back.

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[602] Mr. Knecht discusses the purpose and principles of an ACOSS in his Direct Testimony. *See* OSBA Statement No. 1 at 12-13.

b. Cost of Service

OSBA addressed Columbia's choice to present "three" ACOSSs in this proceeding and acknowledged the classification and allocation of mains costs are often contested in regulatory proceedings, which produces a significant impact on rate design for several reasons. OSBA contends, given the difficulties and controversy surrounding the classification and allocation of mains costs, the Company approached the issue by claiming to pick two methods which lie at opposite ends of the philosophical spectrum. The third method is an average of the two other methods. OSBA points out that the "differences between these three ACOSSs are related only to the issue of mains cost allocation – all other allocations are methodologically the same in the three studies."[603]

OSBA contends the CD ACOSS is most favorable to the larger customers of Columbia, whereas the P&A ACOSS is most favorable to the smallest customers of the Company.[604] *See* OSBA Statement No. 1, at 14-19. Recognizing these inherent differences, OSBA's witness created Table IEc-2 - to demonstrate how widely the results vary across the various ACOSSs - using regular tariff-rate revenue for Columbia's flex rate customers and created a "Traditional P&A ACOSS."[605]

OSBA explains the table can be used by picking any customer-class column and comparing the increases assigned to that customer class based upon which ACOSS is used. For example, the MDS customer class receives a decrease across all ACOSSs. The MDS customer class has its mains costs directly assigned – thus no variation. In contrast, the Residential customer class and the Large General customer class both show wildly different results based upon the ACOSS selected, but, of course, in opposite directions. OSBA concluded without an arbitrary averaging method, "using the full range of possible cost allocation results provides little

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603 OSBA Statement No. 1 at 14

604 OSBA Statement No. 1 at 19-20.

605 OSBA notes a "Traditional P&A ACOSS" would have joint use mains allocated as an integrated system.

guidance for revenue allocation in this proceeding."[606] Accordingly, OSBA contends Columbia's decision to use a 50/50 averaging of its CD and P&A ACOSS is necessarily arbitrary.

Table IEc-2[607] is set forth below:

Table IEc-2 Summary of ACOSS Implications ($000)								
	Total	**Residential**	**SGS1**	**SGS2**	**Medium General**	**Large General**	**MDS**	**Flex**
Current Non-Gas Revenues	433,835	318,013	34,082	39,058	21,885	15,356	552	4,887
CD ACOSS								
Increase to CBR	100,527	109,299	7,588	(9,913)	(7,431)	(5,166)	(458)	6,608
Percent	23.2%	34.4%	22.3%	-25.4%	-34.0%	-33.6%	-83.0%	135.2%
P&A ACOSS								
Increase to CBR	100,527	35,785	8,161	7,221	6,897	16,702	(458)	26,218
Percent	23.2%	11.3%	23.9%	18.5%	31.5%	108.8%	-83.0%	536.4%
Traditional P&A ACOSS								
Increase to CBR	100,527	2,038	3,784	11,781	16,730	28,805	(458)	37,848
Percent	23.2%	0.6%	11.1%	30.2%	76.4%	187.6%	-83.0%	774.4%
Source: RDK WP1, WP2, WP1A								

[606] OSBA Statement No. 1 at 22.

[607] OSBA Statement No. 1 at 21.

OSBA points out that Commission precedent for mains cost allocation is not entirely clear, but relatively recent precedent implies the Commission supports the use of an "average and excess" (A&E) allocation method. However, no party filed an ACOSS explicitly using the A&E method in this proceeding. OSBA notes its witness did develop a 75/25 weighting of the P&A and CD methods, which historically provided a closer approximation to the A&E approach, and then its witness relied on both the 50/50 average and the 75/25 weighting methods for developing revenue allocation recommendations.

c. Revenue Allocation

i. Proposed Revenue Allocation and Alternatives

OSBA explains that "revenue allocation is the assignment of the dollar net increase or decrease to each of the Company's rate classes in a base rates proceeding,"[608] and notes the seminal case on revenue allocation is the *Lloyd* decision, wherein the Commonwealth Court held that the cost of service was the "polestar" of a rate proceeding.[609] In this proceeding, however, OSBA asserts Columbia's proposed revenue allocation was not fully consistent with its own proposed cost of service methodology, particularly where small and medium businesses are concerned.

OSBA summarized Columbia's revenue allocation methodology through its witness, in OSBA Statement No. 1, at 22-23, as follows:

> The Company indicates that it subscribes to the principle that rates should be moved into line with allocated costs, subject to rate gradualism considerations.
>
> For its cost basis, the Company claims that it generally relies on its Average ACOSS methodology.

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608 OSBA Statement No. 1 at 22

609 *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010 (Pa.Cmwlth. 2006).

> The Company also proposes not to assign a rate decrease to the MDS class (and in fact includes an increase for the C&I Network), although a decrease would be justified based on allocated costs.
>
> In addition, the Company appears to have considered the fact that it cannot impose rate increases on flex rate customers, the vast majority of which take service in the Large General Service class.

OSBA concludes the Company's revenue allocation proposal ***is not consistent with its own cost allocation analysis***, even recognizing the Company's belief in a need to accommodate flex rate customer shortfalls, and asserts it is not entirely clear how the Company developed the revenue allocation proposal. OSBA notes the Company indicated its revenue allocation serves to move class revenues closer to allocated costs, but OSBA points out the Company did not explain how its proposed revenue allocation was consistent with its cost allocation method, nor whether the progress toward cost-based rates was consistent across rate classes.[610]

Because the Company was unclear regarding a cost allocation methodology and failed to offer a revenue allocation consistent with its own ACOSS, OSBA proposed the following revenue allocation methodology. First -- as to the cost basis, OSBA offered two alternative revenue allocation proposals: one relied on the Company's 50/50 weighting of the ACOSS extremes; and the second one used a weighted average of the revenue requirements from the two Company ACOSSs, weighing the results of the P&A ACOSS at 75 percent and the CD ACOSS at 25 percent.

Second, OSBA included the $6.5 million in Flex rate revenues the Company currently foregoes in its negotiated rates as current-rates revenue. Third, OSBA limited the increase to any rate class to be no more than 2.0 times the system average, to reflect the principle of rate gradualism. Fourth, OSBA eliminated the rate reductions implied for SGS2 and Medium General (*i.e.*, set the increases to zero) in the Company's 50/50 weighting calculation. Finally, OSBA took the net revenue shortfall that results from the adjustments in Steps 2, 3 and 4 above,

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[610] OSBA Statement No. 1 at 24-25 (emphasis added).

and reallocated that shortfall to the remaining classes on the basis of overall allocated cost.[611] OSBA summarized the Company's and its revenue allocation proposals in the following Table:[612]

Table IEc-5 RDK Proposed Revenue Allocation, Compared to Columbia Proposal						
	Columbia Proposal		**RDK 50/50 Weighting**		**RDK 75/25 Weighting**	
	$000	**%**	**$000**	**%**	**$000**	**%**
Residential	72,614	22.8%	75,021	23.6%	64,966	20.4%
SGS1	8,397	24.6%	8,141	23.9%	9,240	27.1%
SGS2	9,664	24.7%	0	0.0%	4,157	10.6%
Medium General	5,672	25.9%	0	0.0%	4,047	18.5%
Large General	4,178	27.2%	5,903	38.4%	6,655	43.3%
MDS	0	0.0%	0	0.0%	0	0.0%
Flex Current Rate Adj.	--	--	6,519	--	6,519	--
Flex Increase	2	0.0%	4,943	43.3%	4,943	43.3%
Total	**100,527**	**23.2%**	**100,527**	**21.7%**	**100,527**	**21.7%**
Note: The adjustment to current flex rates to reflect the lack of evidentiary support for the discounts is included to true the totals to the Company's proposed increase. The system and flex rate percentage increases are calculated based on the adjusted base rates values. Source: RDK WP2						

OSBA asserts its analysis indicates the Company's proposed increase for the SGS2 class (small to medium non-residential customers) and the Medium General (what Columbia calls the "SDS/LGSS" class) customers is wholly inconsistent with its own ACOSS results, and should either be assigned a zero increase (under 50/50 weighting) or an increase less than half that offered by the Company (under 75/25 weighting).[613] In addition, OSBA contends

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[611] OSBA Statement No. 1 at 27-28.

[612] OSBA Statement No. 1 at 30.

[613] OSBA provides a description of Columbia's "somewhat ill-named" rate classes at OSBA St. 1 at 6-9.

the Company's proposed increase for the smallest non-residential customers in the SGS1 class is not unreasonable under either cost allocation methodology.

Accordingly, OSBA recommends the Commission adopt its recommended revenue allocation based on the 75/25 weighting approach. However, if the Commission approves the Company's proposed approach, OSBA respectfully submits its revenue allocation based on the 50/50 weighting is more consistent with the implications of the Company's ACOSS than the Company's revenue allocation proposal.

ii. Flex Customers

OSBA summarized the issues with the Company's flex customers occur because the Company's flex rate customers obtain service at a large rate discount relative to full tariff rates. OSBA notes the under-recovery of costs from those customers at Columbia's proposed rates can be as high as $31 million, depending on the cost allocation methodology chosen, and is over $16 million using the Company's proposed methodology. OSBA acknowledges that, while discounted flex rates can theoretically provide benefits to non-flex ratepayers, OSBA contends both the need for and the magnitude of such rate discounts must be carefully documented.[614]

OSBA notes generally a utility may be allowed to negotiate its rates with a customer who meets certain criteria, including financial distress, threat of relocation, or lower-cost options such as alternative fuel, pipeline bypass, or "gas-on-gas competition." However, OSBA notes there are problems associated with offering flex rates, which may be unduly discriminatory (as they apply to some customers and not others), and because the flex rates must implicitly be funded by other ratepayers. Accordingly, these flex rates require regulatory scrutiny and should only be allowed under certain economic conditions, most notably that they should be set at the maximum level possible while still retaining the customer.[615]

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[614] OSBA Statement No. 1 at 2.

[615] OSBA Statement No. 1-S at 1.

Noting it took an extended period of time to receive from Columbia, OSBA asserts it received highly confidential material from Columbia regarding the specific circumstances for its flex rate customers and the Company's rationale for offering discounted rates. Based upon that highly confidential information, OSBA concluded: first, Columbia did not demonstrate its gas-on-gas flex rate discounts of $0.9 million are consistent with the policy of the Commission; second, approximately $2.1 million of the bypass flex discounts are credible; and third, $3.6 million of the flex discounts are suspect without more detailed information from the Company.[616]

OSBA contends the Commission should revise the flex rates revenue allocation from $6.5 million down to $3.3 million, based upon the information available from the Company regarding the Company's flex customers, and the remaining $3.2 million should be allocated in proportion as set forth in Table IEc-5.

iii. Allocation of Universal Service Costs

OSBA notes the Commission entered its *Final Policy Statement and Order* on November 5, 2019, at Docket M-2019-3012599, addressing both the type and financing of low-income customer assistance programs. OSBA summarized the Columbia proposal for funding its universal service costs, and asserts Columbia proposes to continue the existing practice of assigning and recovering its universal service program costs from residential ratepayers using a volumetric 'Rider USP' charge, which charges for the FPFTY are forecasted by the Company and totaling $26.73 million in universal service costs, or about $5.56 per month for a typical residential customer.[617]

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616 OSBA Statement No 1-S at 4-5.

617 OSBA Statement No. 1-R at 3.

a) The Pandemic

OSBA notes the Commission's *Order* on November 5, 2019, was entered four months before the Pandemic caused the Commonwealth to go into lockdown. As everyone in the Office of ALJ and Commission knows, small businesses across the Commonwealth have been devastated by the COVID-19 pandemic and the resulting lockdowns. OSBA asks the ALJ and the Commission to take judicial notice of the publicly available information that shows how small businesses are struggling to survive financially, as well as how many small businesses have failed and may never return. As a result, OSBA argues it is unconscionable for any USP charges to be imposed upon Columbia's small business customers for the foreseeable future.

b) OSBA's Witness Testimony

OSBA contends its witness Mr. Knecht provides a detailed analysis and response to those parties who would allocate the USP charges to classes other than the residential class in this, or any other, proceeding in OSBA Statement No. 1-R, 2-11. OSBA respectfully requests that further consideration of this issue be deferred until such time when Columbia's small business and industrial customers are back on their feet financially. For the purposes of this proceeding, OSBA recommends the ALJ and the Commission adopt the USP recovery mechanism proposed by Columbia.

d. Rate Design

i. Residential Rate Design

OSBA did not brief this issue.

ii. Small C&I Customer Rate Design

OSBA provided a detailed summary of the Company's various non-residential customer classes[618] and asserted, for the purposes of rate design, its focus is on the SGS1 and SGS2 customer classes. Accordingly, OSBA's witness created a Table, at OSBA Statement No. 1, at 31, setting forth the Company's proposed rate design (at the full revenue request) for the Small General Service customers:

Table IEc-6 Columbia Proposed Small General Service Base Rate Design			
	Current Rate	**Proposed Rate**	**Percent Increase**
Rates SGSS and SCD			
Customer Charge < 644Dth/year	$22.75	$30.00	31.9%
>644 Dth/year	$48.00	$60.00	25.0%
Commodity Charge <644 Dth/year	$4.4145	$5.4513	23.5%
>644 Dth/year	$3.7912	$4.7478	25.2%
Rate SGDS			
Customer Charge < 644Dth/year	$22.75	$30.00	31.9%
>644 Dth/year	$48.00	$60.00	25.0%
Commodity Charge <644 Dth/year	$4.2925	$5.3428	24.5%
>644 Dth/year	$3.6691	$4.6396	26.5%

OSBA notes rate design, similar to revenue allocation, is dictated by the ACOSS used but, to overcome the inadequacies of Columbia's ACOSSs and proposed revenue allocation, OSBA employed its preferred ACOSS as a check of the Company's proposed

[618] *See* OSBA Statement No. 1 at 7-9.

customer charge increases. OSBA argues that analysis indicates the fully loaded customer cost, based on a 75/25 weighted average ACOSS approach, is $40 for the Residential class, $45 for the Small General Service class (under 644 Dth/year) and $66 for the Small General Service class (over 644 Dth/year). Based on this analysis, OSBA contends the Company's proposals to increase the SGS1 customer charge to $30 and increase the SGS2 customer charge at $48 are cost-justified at the full revenue requirement.[619]

Consequently, OSBA supports the Company's proposed rate design increases for the SGS1 and SGS2 customer classes and asserts, if the ALJ and Commission award Columbia less than its requested $80.4 million, those SGS1 and SGS2 rate increases should be scaled back,[620] to which proposal OSBA asserts the Company agreed.[621]

iii. Large C&I Customer Rate Design

OSBA did not brief this issue.

iv. Gas Procurement Charge Rider

OSBA did not brief this issue.

e. Bill Impacts

OSBA did not brief this issue.

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[619] OSBA Statement No. 1 at 32-33.

[620] *See* OSBA Statement No. 1 at 33, for the standard scale-back methodology.

[621] Columbia Statement No. 3-R at 30-31.

5. CAAP's Position

a. Introduction

CAAP did not set forth legal arguments for Cost of Service and Revenue Allocation under Rate Structure.

b. Cost of Service

CAAP did not set forth legal arguments for Cost of Service.

c. Revenue Allocation

CAAP did not set forth legal arguments for Revenue Allocation.

d. Rate Design

i. Residential Rate Design

a) Residential Customer Charge

CAAP opposes Columbia's proposal to increase the fixed monthly charge from $16.75 to $23, an increase of over 37%. CAAP opposes any increase to the fixed monthly customer charge and certainly opposes such a significant increase. CAAP contends the more a consumer's bill is comprised of fixed charges, the less motive, and opportunity, the consumer has to reduce consumption and save money. CAAP asserts that one of the only defenses a poor family has against increases in energy costs is to conserve, e.g., lower the thermostat, seal air leaks, change filters regularly, add more insulation, get a more efficient heating unit, etc. CAAP argues Columbia's proposal to increase that fixed cost would negatively impact a customer's motive to conserve and the customer's ability to save money. The negative impact on a

customer's motive to conserve and the ability to save money would be compounded should the Company's proposed Revenue Normalization Adjustment (RNA) also be approved.

b) Weather Normalization Adjustment

CAAP did not brief this issue.

c) Revenue Normalization Adjustment

CAAP argues against the proposed Revenue Normalization Adjustment (RNA) for many of the same reasons it opposes an increase to the fixed monthly customer charge. CAAP contends the RNA will have a negative impact on low-income customers' ability and motive to conserve. CAAP notes the RNA would allow the Company to recover revenue on a per customer basis and not on a usage basis and that recovery would lessen a low-income customer's ability and motive to reduce their bill through conservation. Additionally, because there is a 'lag time' in the adjustment to rates, CAAP asserts a customer would not see the connection between reducing consumption and reducing the bill. For example, a customer may see his bill increase due to a revenue normalization adjustment even after making efforts at conserving or after having conservation measures installed. Further, CAAP asserts low usage residential customers would be subsidizing in part the high usage residential customers and that subsidy would have a negative impact on low-income customers trying to reduce their bills through conservation efforts.

ii. Small C&I Customer Rate Design

CAAP did not brief this issue.

iii. Large C&I Customer Rate Design

CAAP did not brief this issue.

iv. Gas Procurement Charge Rider

CAAP did not brief this issue.

e. Bill Impacts

CAAP did not brief this issue.

6. CAUSE-PA's Position

a. Introduction

CAUSE-PA urges the Commission to order Columbia to recover universal service costs from all customer classes, and to reject Columbia's proposals to increase the fixed residential customer charge, and to impose a Revenue Normalization Adjustment rider. CAUSE-PA argues Columbia's positions on these matters perpetuates broad inequities in the distribution of public purpose program costs and undercuts energy efficiency and conservation efforts, devaluing substantial ratepayer investments in energy efficiency and conservation programming designed to reduce costs for low-income consumers over the long term.

b. Cost of Service

CAUSE-PA supports the Office of Consumer Advocate's cost of service analysis.

c. Revenue Allocation

i. Proposed Revenue Allocation

CAUSE-PA does not take a position on Revenue Allocation, except on the allocation of universal service costs. CAUSE-PA continues to assert Columbia's rate request

should be rejected in its entirety in light of the economic uncertainty and profound hardship caused by the ongoing global pandemic.

ii. Flex Customers

CAUSE-PA does not take a position on Flex Customers other than to recommend that the allocation of universal service costs include all customers, including flex rate customers, in addressing allocation of universal service costs.

iii. Allocation of Universal Service Costs

CAUSE-PA argues Columbia should spread its universal service costs equitably across all rate classes, because nonresidential customers contribute to the cost of and need for the programs but also derive a benefit from the programs. (CAUSE-PA MB at 29-38). It notes OCA also argued for cross class recovery of universal service costs based on similar considerations. (OCA MB at 28-57).

In response, Columbia and others argue universal service costs should be recovered exclusively from residential customers based upon. CAUSE-PA contends the arguments of Columbia and others – based on previous holdings from the Commission and the Commonwealth Court (CPA MB at 147; CII MB at 18; PSU MB at 15-16) - overlook the Commission's recent directive and misinterprets prior court decisions that have allowed for the recovery of public service program costs through rates.[622] CAUSE-PA points out the Commission stated in its *Final CAP Policy Statement*:

> [T]he Commission has in the past approved and defended the practice of recovering universal service costs, including CAP costs, from only residential ratepayers based on the "narrowly tailored" nature of these programs and the potential detrimental economic impact to Pennsylvania's business climate if these costs were recovered from all ratepayer classes. **However, our review of Pennsylvania's current**

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[622] *Final CAP Policy Statement and Order* at 90; *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010, 1024-1025 (Pa.Cmwlth. 2006).

> **universal service model in the *Review and Energy Affordability* proceedings has provided reasons to reconsider this position.[[623]]**

CAUSE-PA asserts the Lloyd court decision specifically authorized the recovery of similar public purpose program costs across rate classes.[624] In that proceeding, the Commonwealth Court held "the General Assembly has specifically authorized that public service programs such as SEF be funded," and "that it be funded as an allowable expense by a '***nonbypassable*** rate mechanism."[625] The Court also concluded "it was well within the Commission's discretion to determine that SEF projects **produced demonstrable benefits for ratepayers**."[626] CAUSE-PA contends commercial and industrial customers have bypassed universal service program costs for over two decades, despite the requirement under the Choice Act that universal service programs to be funded through a nonbypassable rate mechanism.[627] CAUSE-PA contends the arguments of CII and PSU - that, according to *Lloyd*, recovering universal service costs across rate classes would violate cost causation principals which are a "polestar" of ratemaking (CII MB at 18; PSU MB at 2, 4, 15) - conflates language from a different section of the *Lloyd* opinion (separate and distinct from its discussion on appropriate recovery of public service program costs), where the appellate court *overturned* the Commission's decision to allow PPL's proposed differential in transmission and distribution rates between the rate classes based solely on the principal of gradualism, without considering cost causation principals.[628] On this distinct and separate matter, CAUSE-PA contends the appellate court pointed out that the Commission offered no explanation, other than the principal of gradualism, to explain its rationale for allowing the rate differential, and that it cited to the principal of gradualism as the sole factor in making its determination.[629]

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623 *Final CAP Policy Statement and Order* at 90.

624 *See Lloyd v. Pa. Pub. Util. Comm'n.*, 904 A.2d at 1024-1025.

625 *Id.*

626 *Id.* (emphasis added).

627 66 Pa.C.S.A. § 2203 (6).

628 *Lloyd v. Pa. Pub. Util. Comm'n* , 904 A.2d at 1020.

629 *Id.*

However, in the case of universal service costs, CAUSE-PA points out the Commission addressed cost causation principals and determined that nonresidential customers play a role in the causation of costs for universal service programs and should no longer be routinely exempt from paying for those costs.[630] As the Commission recently concluded, **"poverty, poor stock, and other factors that contribute to households struggling to afford utility service are not just 'residential class' problems**."[631]

CAUSE-PA also notes the Commission's Bureau of Consumer Service opined in comments to the Commission's 1992 Investigation of Uncollectible Balances (when this issue was last contemplated by the Commission prior to issuing its most recent CAP Policy Statement) the origins and impacts of energy unaffordability are not limited to residential ratepayers:

> [T]he problem of the inability of some low-income [*sic*] customers to pay their entire home energy bills is **caused primarily by societal economic conditions that are unrelated to any one rate class**. Until such time as sufficient public revenues are available to address the poverty/energy problem, the costs for [CAPs] should be viewed as a cost of operating as a public utility for which all ratepayers must share the cost. [BCS] does not find any logic to the argument that because the larger societal economic conditions are negatively affecting the ability of some [low-income] residential customers to pay their bills, that the problem is somehow caused by the residential class and should therefore be paid for by that class.[632]

CAUSE-PA asserts herein collecting universal service costs from non-residential ratepayers is different from abandoning cost causation principals in favor of gradualism as occurred in *Lloyd*. Requiring non-residential customers to stop bypassing universal service charges – and contribute their fair share of the universal service costs– is squarely in line with the court's holding with regard to other public purpose programs.[633] R**esidential consumers do**

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630 *Final CAP Policy Statement and Order* at 94.

631 *Id.* at 4 (emphasis added).

632 *Final Report on The Investigation of Uncollectible Balances*, Docket No. I-00900002 at 157-158 (1992) (emphasis added).

633 *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d at 1024-1025.

not *cause* energy poverty, and should not alone shoulder the cost of the solution. (*Id.* at 35-36; OCA MB at 166-169). CAUSE-PA contends the Commission should require Columbia to recover universal service costs equitably across all rate classes to ensure that costs for addressing energy poverty are no longer bypassed by non-residential customers. It argues Columbia and other parties are in error to assert residential customers are the sole beneficiaries of universal service programs. (CPA MB at 147; CII MB at 18; PSU MB at 17) because, as the Commission has previously held "all firm customers, including commercial and industrial customers, benefit indirectly from [PGW's] extensive low-income assistance programs,"[634] and "helping low-income families maintain utility service and remain in their homes is also a benefit to the economic climate of a community.[635]

CAUSE-PA contends universal service programs benefit nonresidential customers in real and substantial ways, including helping to prevent negative impacts to worker productivity and employee turn-over resulting from energy insecurity. (CAUSE-PA MB at 34-36; *see* CAUSE-PA St. 1 at 39-43). Universal service programs also help reduce the financial burden of energy poverty on the health system and helps households stay connected to gas service for hot water to wash and sanitize and heat for working/schooling from home; both of which are vital to curb the spread of COVID-19. (CAUSE-PA MB at 34-36; *see also* OCA MB at 170-173).

CAUSE-PA points out requiring cross class recovery of universal service costs by Columbia would not place it at a disadvantage because other utilities currently recover exclusively from the residential class, including Philadelphia Gas Works – which serves an area with the highest concentration of poverty in the state. PGW already recovers universal service costs from all customers. CAUSE-PA asserts more utilities are likely to soon follow, consistent with the Commission's declaration in its Final CAP Policy Statement and Order that "[u]tilities should be prepared to address recovery of CAP costs (and other universal service costs) from any

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634 *Pa. Pub. Util. Comm'n v. PGW*, *Final Order*, Docket No. R-2017-2586783 at 75 (Nov. 8, 2017).

635 *Final CAP Policy Statement and Order* at 94.

ratepayer classes in their individual rate case filing."[636] CAUSE-PA argues the Commission put all NGDCs and EDCs on notice of its intention to no longer accept rate structures that routinely recover universal service costs from residential consumers alone, and are expected to advance proposals that will equitably recover universal service costs from all ratepayers. CAUSE-PA contends Columbia should have been prepared to do the same in this case.[637] Thus, there is no support for Columbia's argument that spreading universal service costs equitably across customer classes would disadvantage the Company.

As for flex rate customers, CAUSE-PA points out the Choice Act specifically authorizes the recovery of public purpose program costs, including universal service program costs, through a *nonbypassable* rate mechanism.[638] Flex rate customers play the same role in the causation of universal service costs and receive the same benefits as other nonresidential customers. (CAUSE-PA MB at 33-36). Nothing in the Choice Act suggests that flex rate customers should be exempted or otherwise allowed to bypass any mechanism established to recover these or other public purpose costs. (CAUSE-PA MB at 32). Importantly, there is no evidence whatsoever in this record that flex customers will opt to leave Columbia's distribution system if they are required to pay their fair share of universal service costs, just as there is no evidence that allocating universal service costs across customer classes would adversely affect businesses. (CAUSE-PA MB at 36-38; *see also* OCA St. 1-SR at 34-35). As such, Columbia's and PSU's arguments on this point must be ignored.

CAUSE-PA notes PSU's arguments against cross-class recovery are laced with a particular irony, given the clear need of low-income college students for such supports. In fact, as Mr. Miller noted in his testimony, the President of PSU, Eric Barron, formed a University Task Force on Food and Housing Security in February 2020 to help address growing food, housing, and energy insecurity amongst college students. (CAUSE-PA St. 1-SR at 19-20). In

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636 *Final CAP Policy Statement and Order* at 7, 80-97, 104.

637 *Final CAP Policy Statement and Order* at 95-96. Regarding PGW's longstanding policy of recovering universal service costs from all customer classes, the Commission has observed: "[W]e have not seen evidence that the economic climate in Philadelphia has been negatively impacted as a result of universal service costs charged by PGW."

638 66 Pa.C.S.A. § 2203 (6).

charging the Task Force with improving the availability and accessibility of programs to address those critical insecurities, Mr. Barron recognized that "[f]ood and housing insecurity can have a profound effect on a student's ability to thrive" – ultimately impacting their ability to succeed at PSU. (CAUSE-PA St. 1-SR at 20). As Mr. Miller concluded after reviewing a number of statistics highlighting the stark food, housing, and energy insecurity rates amongst college students:

> Universal service programs help bridge the gap for basic needs, allowing low-income students and their families to better afford energy costs while attending school. As such, universal service programs provide a direct and substantial benefit to PSU and dozens of other educational institutions across CPA's service territory, advance common goals of achieving equity and promoting opportunity and advancement, and serve to promote a skilled and educated work force. This is the very definition of a public benefit, and the associated costs of universal service programming should be recovered as such. (CAUSE-PA St. 1-SR at 20-21).

Indeed, universal service programs provide a clear benefit to PSU and other educational institutions, and as such they must equitably share in the costs of those programs.

CAUSE-PA notes Columbia disagreed with the proposals of OCA and CAUSE-PA, asserting a failure to consider that universal service costs are recovered pursuant to a reconciled recovery mechanism and neither OCA nor CAUSE-PA explained how the mechanism will be modified to account for class reconciliation of amounts to be recovered. (CPA MB at 148). CAUSE-PA argues the obligation to propose necessary adjustments to the mechanics of the recovery mechanism rests with the Company and it should have presented such an adjustment with its rate proposal.

CAUSE-PA notes the Commission's own statement, when explaining its rationale for requiring utilities to be prepared to address cross class recovery of universal service costs in their next rate case, which stated:

> *CAP program funding.* The Commission is amending program funding to include a universal service funding mechanism for EDCs. This revision is consistent with section 2804(8) of the [Electric Competition]

> act that requires the Commission establish for each electric utility an appropriate cost recovery mechanism which is designed to fully recover the EDC's universal service and energy conservation costs over the life of these programs.[639]

CAUSE-PA notes the Commission directed, "[u]tilities should be prepared to address recovery of CAP costs (and other universal service costs) from any ratepayer classes in their individual rate case filing."[640] Thus, Columbia was responsible to come into this proceeding with a proposed adjustment back in April, 2020.

d. Rate Design

i. Residential Rate Design

a) Residential Customer Charge

CAUSE-PA recommended the Commission reject Columbia's proposal to increase its fixed charge from $16.75 to $23.00 (an increase of $6.25 or 37.3%) because the increase would undercut achievable bill savings through conservation measures. (CAUSE-PA MB at 38-41; CAUSE-PA St. 1 at 32-36). CAUSE-PA explained that Columbia's proposal undermines the explicit goals of LIURP to help low-income customers to reduce their bills through conservation measures. (CAUSE-PA MB at 39; CAUSE-PA St. 1 at 32). CAUSE-PA notes its concerns, about the effect of the proposed fixed charge on conservation savings, was shared by OCA Witness Jerome Mierzwa (OCA St. 4 at 38) and CAAP Witness Susan Moore (CAAP St. 1 at 3).

CAUSE-PA argues its analysis of the fixed charge increase is not based on any assumption that increasing the customer charge will eliminate the incentive to conserve energy. Instead, CAUSE-PA contends its analysis is based solely on simple facts and the logical conclusion that **an increase to the volumetric charge can be offset by conservation measures,**

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639 *Final CAP Policy Statement and Order* at 80.

640 *Id.*

whereas an increase to the volumetric charge cannot. (CAUSE-PA St. 1 SR at 13). Even if customers invest in conservation measures, their ability to get a return on that investment through bill savings will be negatively impacted by the increased fixed charge. (CAUSE-PA St. 1 at 34). This negative effect on the ability to achieve bill reductions through investment in conservation also applies to the millions of dollars of ratepayer investments in the LIURP program and in Columbia's Energy Efficiency and Conservation Program. (CAUSE-PA St. 1 at 33-35, 40-41).

CAUSE-PA explained its position with an example. Currently, the customer charge ($16.75) makes up 19.1% of the current average residential bill ($87.57). If Columbia's proposed fixed charge is approved (at $23.00), the customer charge would equal 26.2% of the current average residential bill (at $87.57) – or 22.3% of the average bill if the rate increase is approved as requested (at $103.19). In other words, if the proposed increase in the fixed customer charge is approved, Columbia customers will lose the ability to control (on average) approximately 3.2% of their monthly bill through energy conservation and consumption reduction efforts – undermining the effectiveness of LIURP to achieve meaningful bill savings for low-income consumers. (CAUSE-PA St. 1 at 34).

CAUSE-PA argues the negative impact on LIURP investment directly contradicts the explicit goals set out in the LIURP regulations to help low-income customers to reduce their bills and, in turn, to "decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs."[641] Thus, one does not have to assume that "an increase to the customer charge necessarily reduces the increase to the volumetric charge, thereby eliminating any incentive to conserve energy," (as claimed by Columbia at CPA MB at 152) to realize the obvious fact that increases to the fixed charge will undercut the ability to achieve bill reductions through conservation measures. (CAUSE-PA St. 1 at 32-34). While customers may still retain some incentive to implement conservation measures, that incentive will be substantially less than

[641] "The programs are intended to assist low-income customers conserve energy and reduce residential energy bills. The reduction in energy bills should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs." 52 Pa.Code § 58.1.

if the rate increase were assigned exclusively to the volumetric charge, in which case customers would be better able to offset the impact of the increase by reducing their usage. (*Id.*)

b) Weather Normalization Adjustment

CAUSE-PA did not take a position on this issue.

c) Revenue Normalization Adjustment

i) Columbia's Revenue Normalization Adjustment should be rejected.

CAUSE-PA recommends the Commission reject Columbia's Revenue Normalization Adjustment (RNA), because the RNA Rider would recover revenue on a per customer basis, rather than a usage basis, which recovery would undercut low-income households' ability to reduce their bill through usage reduction and conservation efforts. (CAUSE-PA St. 1 at 36-37). The effects of the RNA would be similar to the effects of Columbia's proposed fixed charge increase described above and in CAUSE-PA's Main Brief (CAUSE-PA MB at 38-41). As with its proposed fixed charge increase, Columbia's proposed Rider RNA would undermine the effectiveness of LIURP to reduce low-income customer bills and would thus have a disproportionately negative impact on low-income consumers. (CAUSE-PA St. 1 at 37).

CAUSE-PA claims Columbia's assertions to the contrary are a misleading and inappropriate way to claw back bill savings achieved through energy conservation efforts that would rob customers, including low-income customers, of bill savings and undercut the return on millions of dollars of ratepayer investment in LIURP meant to reduce customer bills over the long term. (CAUSE-PA St. 1 at 31, 33, 37). In addition, Columbia's assertion that the RNA would "reflect what would normally happen in a rate case when customer usage declines," (CPA MB at 161), is an inaccurate statement.

CAUSE-PA explained the difference between the effect of the RNA versus a traditional rate case as follows:

> [T]he Rider RNA will be automatically applied twice each year, and consumers will have no opportunity to contest or object to the increase through the public input hearing process or rate proceeding and the Company will have no obligation to demonstrate that it could not control or reduce cost in other ways. Consumers must continue to have the right to challenge rate increases, particularly given the demonstrable and significant impact it will have on the ability for consumers to have continued and stable access to affordable utility services.

CAUSE-PA St. 1-SR at 14.

CAUSE-PA argues Columbia's arguments for the adoption of its RNA are as misleading as the effects of the RNA itself. While customers may be tricked into thinking that their energy conservation efforts are helping them achieve bill reductions, Columbia will claw back those savings on subsequent bills, thus eroding any savings over the long term – and ultimately serving as a disincentive to invest in additional energy efficient equipment in the future. CAUSE-PA recommends the Commission reject this adjustment.

ii. Small C&I Customer Rate Design

CAUSE-PA did not take a position on this issue.

iii. Large C&I Customer Rate Design

CAUSE-PA did not take a position on this issue.

iv. Gas Procurement Charge Rider

CAUSE-PA did not take a position on this issue.

e. Bill Impacts

CAUSE-PA notes that, on August 20, 2020, the Commission issued an Order granting Columbia's Petition for Reconsideration and ordered the base rates resulting from this proceeding would be effective as of the end of the statutory suspension period on January 23, 2021,[642] although the date the final rates would be approved would be in February, 2021. In its Order, the Commission directed the parties were to address the appropriate amount and method of rate recovery between the end of the suspension period and the date the final rates are approved.[643]

CAUSE-PA points out Columbia has indicated it expects apply the Commission-approved rates to prior billed usage, and the back billing amount will be the difference between the amount calculated at new rates and amounts actually billed previously at old rates. (CPA MB at 168). In other words, Columbia proposes to immediately and fully recover the fully difference between current rates and approved rates – without any amortization to prevent a steep fee at the tail end of the winter heating season, and around the same time the current pandemic moratorium on low-income terminations is set to expire.

CAUSE-PA argues now is not the time for the Commission to raise rates. CAUSE-PA urges the Commission to reject Columbia's rate proposal, which would make this issue moot. Low-income customers – including those in CAP – face substantial and profound levels of unaffordability. (CAUSE-PA St. 1 at 14-20). Columbia's customers, especially its low-income customers, are struggling now more than ever due to the COVID-19 pandemic. (CAUSE-PA MB at 6-10). While $7.59 may seem like an insignificant amount to Columbia (CPA MB at 168), that amount is substantial for its low-income consumers. (CAUSE-PA St. 1 at 14-20). As such, CAUSE-PA asks the Commission to reject Columbia's proposal to recover any back billed rates in one lump sum, in addition to rejecting Columbia's proposal to increase rates.

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642 *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket No. R-2020-3018835 (Order entered August 20, 2020).

643 *Id.*

7. CII's Position

a. Introduction

CII acknowledges that while Columbia's Customer/Demand study would provide the most appropriate Cost of Service Study mechanism for use in this proceeding, CII recommends the Commission use the Company's Average study without modification as a reasonable compromise of all of the parties' positions. Even with using the Average study, however, CII submits the Commission must consider the principle of gradualism and the current economic hardships facing Large Commercial and Industrial customers. Accordingly, in order to account for those factors, CII submits the Commission should reject the other parties' proposed rate allocations to Rate LDS and, instead, the Commission should apply less than, but certainly no more than, any system average increase to Rate LDS. Moreover, due to current issues and the economic environment, CII submits any change in the status quo with respect to the allocation of Universal Service Programs would be inappropriate at this time.

b. Cost of Service

CII notes Columbia provided three separate COSSs: (1) the Customer/Demand Study; (2) the Peak and Average Study; and (3) the Average Study (which averages the results of the Customer/Demand and P&A studies). *See* CII MB, at 10. CII points out both OCA and BIE recommend exclusive use of the P&A Study (OCA MB at 150-155; BIE MB at 86), however, because exclusive use of the P&A Study would unfairly discriminate against higher load customers, CII agrees with Columbia and PSU that the Average Study may be the best compromise for purposes of this proceeding.

CII disagrees with BIE that multiple COSSs are unnecessary when allocating costs and that use of multiple COSSs is burdensome to other utilities. First, CII contends the impact of using multiple COSSs on other utilities is not relevant in this proceeding. Second, CII argues BIE did not submit any evidence supporting its assertion that presenting multiple COSSs have been burdensome for Columbia. CII notes Columbia has conducted two studies for several

years and averaged the results of those two studies because Columbia finds that the Average Study produces "a reasonable range of returns for use as a guide in establishing appropriate rates." CII argues BIE has recognized the Commission may consider a COSS that averages the results of two COSSs and that Columbia is entitled to use and advocate for the Average Study.

CII notes OCA argued the Average Study contains "serious flaws" and does not accurately represent the costs to serve various customer classes, however, CII argues OCA failed to demonstrate that the exclusive use of the P&A Study is just and reasonable and appropriately considers the costs to serve all customer classes. *See* CII MB, at 11-15; *see also* Columbia MB, at131-136. Despite OCA's assertions to the contrary, CII contends the use of the Customer/Demand Study helps to identify customer cost responsibility for mains. *See* OCA MB, at 139, *cf.* CII MB, at 11-15; Columbia MB, at 131-136. As an example, CII asserts Columbia separated and allocated low-pressure and two-inch mains only to the residential and small commercial class because the other classes are not physically served from and do not benefit from those mains. Columbia MB, at 131. Further, CII points to Columbia's explanation the P&A Study alone does not reflect how Columbia incurs costs to provide service because 50% of the mains costs in the P&A Study is based on throughput. *Id.* at 132.

CII argues relying solely on the P&A Study is unreasonable, inconsistent with industry standards, violative of cost causation principles, and inconsistent with Commission precedent. *See* Columbia MB, at 131-136 (*citing Pa. Pub. Util. Comm'n v. PPL Elec. Utils. Corp.*, Docket No. R-2012, at 113 (Order entered Dec. 28, 2012) (explaining that a proper COSS recognizes both the customer component and peak demand component of the distribution plant)). Because the P&A COSS does not provide a reasonable consideration of the costs to serve all customer classes, the Commission should reject the proposed exclusive use of the P&A COSS. Instead, if the Commission chooses not to utilize the Customer/Demand COSS, the Commission should consider accepting the Average COSS, as it provides a reasonable compromise of all of the parties' positions in this proceeding.

c. Revenue Allocation

i. Proposed Revenue Allocation and Alternatives

CII disagrees with Columbia's recommendation to use the Average COSS for purposes of revenue allocation and rate design (Columbia MB, at 128-131), because the resulting rate increase to Rate LDS proposed by Columbia fails to recognize the principal of gradualism, much less the current economic hardships faced by large commercial and industrial customers. As such, CII requests the Commission reject these proposals and the Rate LDS should receive no more, but preferably less, than any system average increase.

CII noted that, under Columbia's proposal, the system average increase would be 17.5%; however, Rate LDS customers would receive an increase that is higher than the system average. *See* CII MB, at 15. Such an increase is not appropriate because large commercial and industrial customers on Columbia's system have had to endure rate increases filed by Columbia approximately every twelve to eighteen months over the past decade. CII Statement No. 1, at 8. CII contends Columbia's proposal in this rate filing is especially excessive because the Company's requested rate increase of $100 million would translate to an approximate 25% overall increase to Rate LDS. CII MB, at 15-16. When this 25% increase is combined with the uncertainty that customers face due to the impact of the COVID-19 pandemic, Rate LDS customers would be faced with a significant hardship that is neither just nor reasonable.

Similarly, CII disagrees with BIE's assertion that, if the Commission allows for a rate increase, then such an increase should be scaled back and applied proportionally among the customer classes using the COSS that is ultimately approved by the Commission. *See* I&E MB, at 95. CII disagrees about this scale-back because CII contends the industrial class (*i.e.,* Rate LDS) would receive more than the average system increase. *See* CII MB, at 15-17. Rather, CII submits that Rate LDS should receive less than, but certainly no more than, the system average increase. *Id.*

CII argues the proposals offered by OSBA and OCA would result in increases for Rate LDS between 36% to 43.3%. (OSBA MB, at 18; OCA MB, at 158). CII contends these increases would result in rate shock during normal economic times, but such rate increases under current conditions would completely ignore the role of gradualism in ratemaking.

CII recognizes Rate LDS may need to receive some increase in order to move this class of customers closer to their cost to serve; however, CII asserts such an increase should be less than the approximate 25% increase proposed by Columbia. Accordingly, CII urges the Commission to outright reject the proposals of OCA and OSBA and approve a rate increase to LDS that is in line with or lower than the system average to reflect gradualism and current economic conditions.

ii. Flex Customers

CII offered no position on this issue.

iii. Allocation of Universal Service Costs

CII notes, to date, the costs of Columbia's USP have been funded by the residential customer class, as these customers are the class that is eligible to receive the benefits offered by the UPS. CII points out CAUSE-PA, OCA, and CAAP seek to allocate USP costs to all rate classes based on their assertions the USP is a "public good" and provides indirect benefits to all customer classes. CII contends this proposal - to allocate USP costs to non-residential classes - violates cost-causation principles, does not provide any benefit for non-residential classes, and would create a slippery slope by applying precedent from other states. Accordingly, CII submits the Commission must reject CAAP, CAUSE-PA and OCA's proposal and continue the status quo with respect to USP cost collection.

The proposal to change allocation of USP costs to all customer classes must be rejected because, if adopted, the change would ignore the well-established principles of cost-causation. CII asserts the Commonwealth Court has indicated previously that the principle of

cost causation is the polestar for ratemaking purposes. *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010, 1016 (Pa.Cmwlth. 2006). Therefore, "[c]ost causation may not be subordinated and ignored in determining class rates." PSU St. 1R, at 18.

CII contends the arguments of OCA, CAUSE-PA, and CAAP - that UPS costs should be allocated to all customers because Columbia's USP provides a "public" and "indirect" benefit to non-residential classes - completely ignore the principles of cost causation. OCA St. 5 at 40-41; CAUSE-PA St. 1 at 40-43; CAAP St. 1-R, at 2. In fashioning the proper cost allocation for Columbia's USP, CII argues the Commission must consider why these types of programs were initially developed. Columbia St. 1-R at 25. Programs such as USPs were created to "reduce overall costs related to customer arrearages and customer collection costs to *residential* rate payers by reducing *residential* customer arrearages." *Id.* As such, residential customers are the sole class eligible to receive universal service benefits and must necessarily bear the cost of these programs. *Id.*; *see also* PSU St. 1-R at 19. In other words, because only residential customers benefit from USP, only residential customers should be allocated these costs.

Further, CII argues that - even if the Commission were to consider OCA's claim of a "public benefit" for purposes of cost causation - no such public benefit can be found, especially in light of the hardships currently faced by large commercial and industrial customers due to the COVID-19 pandemic. CII St. No. 1R at 2; PSU Statement No. 1R at 18. CII contends shifting costs for the USP to rate classes that neither cause any cost to the Company in relation to residential customer arrearages nor receive any benefit from reduced residential arrearages, on the basis that the USP is somehow a public good "divorce[s] revenue allocation and rate design from cost incurrence and cost allocation principles." Columbia St. 1R at 25-26. Such a proposal "looks outside the ratemaking process to arbitrarily conclude that a cost that is caused by one class should be shifted to other classes." *Id.*

Moreover, CII contend, if the Commission were to allocate USP costs on the amorphous basis of a "public benefit," future proceedings could find numerous parties requesting discounts, subsidies, credits, or free service based upon the same "public benefits" offered. In

the end, because even businesses provide societal benefits through wages, no funding source will exist for all of the free service given out for alleged "public benefits."

In an effort to further justify their proposal, CAUSE-PA and OCA rely on the Commission's statements in its *2019 Amendments to Policy Statement on Customer Assistance Program 52 Pa.Code § 69.261-69.267*, Docket No. M-2019-3012599, Final Policy Statement and Order (entered November 5, 2019) ("*Final CAP Policy Statement*"). Specifically, OCA and CAUSE-PA seem to point to the Commission's statements indicating the PUC's willingness to consider arguments for the inclusion of non-residential classes in allocation of USP costs as support OCA and CAUSE-PA's proposal. OCA St. 5 at 29; CAUSE-PA St. 1 at 38-39. CII asserts that simply because the Commission is willing to hear arguments regarding USP cost obligations does not mean that the Commission has necessarily changed its stance on cost-allocation. *See Final Cap Policy Statement* at 97. The Commission has merely committed to considering the merits of such arguments and has made no determination concerning the appropriateness of allocating USP costs to non-residential customer classes.

Lastly, CII contends OCA's and CAUSE-PA's attempts to justify allocating USP costs to non-residential customer classes by merely pointing to other states' cost-recovery methods for their respective USPs. CAUSE-PA St. 1 at 43; OCA St. 5 at 55-56. According to CAUSE-PA and OCA, other states have allocated cost responsibility of USPs to all customer classes. *Id.* However, the fact that some other states may assign costs to non-residential classes is not sufficient to abandon the well-settled and long adhered-to principles of cost causation and allocate USP costs to customer classes that receive no direct benefit from these programs. PSU St. 1R at 26. USPs vary state by state and are controlled by the operative laws of each state. *Id.* Further, other states programs may have different qualification requirements or program cost limits. *Id.* Therefore, whether other states have allocated USP costs to non-residential classes is of no significance to this proceeding.

Accordingly, CII argues the Commission should uphold the status quo of cost allocation for the USP, because the proposal to allocate USP costs to all customer classes

violates the principles of cost-causation as the USP provides no direct benefit to nor provides eligibility for customer classes outside of the residential class.

d. Rate Design

CII had no opinion on this issue.

e. Bill Impacts

CII had no opinion on this issue.

8. PSU's Position

a. Introduction

PSU contends the evidence shows the Company's Average Study should be adopted as the most balanced and fair approach to allocation of costs. PSU asserts that 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 COSS methodology are distinguishable and do not mandate a result here. This case must be decided on the evidence and facts of record. PSU argues the evidence shows that universal service program costs cannot be allocated to rate classes other than residential, and 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

PSU contends the evidence shows Columbia's Average Study should be adopted and there is no precedent to the contrary. PSU MB at 5-14. PSU argues the Average Study most fairly balances the interests of all customers, while utilizing solely a Peak and Average study, as proposed by OCA and BIE, 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.

PSU asserts OSBA recognizes 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. PSU asserts the point of the Company using two studies is to determine boundaries or extremes, and then take an average. PSU contends OSBA determined boundaries but then skewed the average by the use of unequal weighting.[644]

PSU submits the Commission should reject OCA and BIE's advocacy for sole use of a Peak and Average. PSU MB at 7-11, Columbia MB at 127-136, CII Main Brief at 11-15. PSU contends the Peak and Average methodology does not include a customer component and 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. PSU asserts various authorities recognize that a customer component should be included, and OCA and BIE'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, and to do so is contrary to basic principles of cost causation. PSU contends the Commission previously rejected that approach.[645] Further, PSU contends it 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.

PSU argues OCA took a more severe position that even the Company's Peak and Average Study is "seriously flawed." However, PSU asserts even BIE - who advocates for use

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

[645] *See Pa. Pub. Util. Comm'n 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. Pub. Util. Comm'n v. PPL Electric Utilities Corp.*, Docket No. R-2010-2161694 at 46 (Order entered December 21, 2010)).

of the Company's Peak and Average Study - does not agree with this. 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. PSU argues using the Company's 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.

PSU argues no Commission decision mandates that a Peak and Average Study must be utilized (PSU MB at 11-14), and disagrees with a BIE assertion the Commission in the *NFGD 1994*[646] case did not reject the Peak and Average Study so this is the study the Commission accepts. BIE MB at 89. PSU contends this assertion 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. PSU argues this case does not serve as an endorsement of the Peak and Average methodology or a prohibition on considering other methodologies.

c. Revenue Allocation

i. Proposed Revenue Allocation and Alternatives

PSU supports the Company's proposed revenue allocation based on the Average Study, which PSU contends equally balances the Customer Demand and Peak and Average studies. PSU is opposed to the adjustments OSBA proposed to this allocation. PSU contends OSBA made several adjustments to determine the 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, OSBA weights

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[646] *National Fuel Gas Distribution Corp.*, Docket Nos. R-00942991, Recommended Decision (entered Oct. 7, 1994) (*NFGD 1994*).

them 25/75 between Customer-Demand/Peak & Average. PSU contends the point of the Company's using two studies is to determine boundaries or extremes, and then average. PSU contends OSBA determined boundaries but then skewed the average using unequal weighting.[647]

ii. Flex Customers

PSU did not offer a position on this issue.

iii. Allocation of Universal Service Costs

PSU contends the Company is correct to propose assigning 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. PSU points to the Commonwealth Court's discussion on 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.[648]

PSU contends assigning costs to ratepayers that do not benefit from those programs increases subsidies and violates this principle because it "is the long-standing policy of the Pennsylvania Public Utility Commission that the costs for these programs be allocated only

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

648 *Lloyd,* 904 A.2d at 1020-21.

to residential rate classes."[649] PSU argues there is no reason to stray from that long-standing policy here.

PSU argues the Commission's policy statement at 52 Pa.Code § 69.265(1) is not determinant and points to footnotes associated with that policy statement, which PSU asserts makes clear the Commission was not making a final precedential decision regarding cost recovery and was providing that the recovery of CAP costs in particular can be fully explored in utility rate cases because decisions regarding cost recovery will remain the province of utility-specific proceedings. PSU contends that, while the Commission has indicated potential change in its long-standing policy, this change was not based on identifiable changes in regulatory philosophy or cost causation principles. PSU argues the Commission's primary motivation to consider changing the cost recovery method was not based on any identifiable change in regulatory philosophy or cost causation principles, but 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.[650]

PSU contends 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,[651] will have negative impacts. PSU asserts there is no quantifiable calculation to justify cost shifting to non-residential class. PSU argues that, even if there were benefits to the non-residential classes, those benefits 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."[652]

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649 OSBA St. No. 1-R at 2:24-26.

650 OSBA St. No. 1-R at 3:10-15.

651 PSU St. No. 1-R at 5:5-6:8; PSU St. No. 1-SR at 17:15-19:7.

652 PSU St. No. 1-R at 18:11-19.

PSU points out only Residential customers are eligible to receive universal service benefits. Commercial or industrial customers are not eligible for some type of benefit. Yet, PSU complains other parties want non-residential classes to openly subsidize these benefits, which is unfair and unreasonable. PSU contends the transition to a more competitive natural gas marketplace included protections put into place to address concerns of discrimination and subsidization. PSU points to Section 2203(5) of Title 66, Chapter 22, Natural Gas Competition, which requires the Commission to implement the restructuring without unreasonable discrimination against one customer class for the benefit of another customer class. PSU argues assigning residential universal service program costs to commercial and industrial classes would do just that.[653]

PSU contends universal service programs are not a public benefit because they are a direct benefit to residential customers. There is no evidence presented to show that these programs that enable residential customers to pay their Columbia gas bill are a benefit to commercial and industrial customers. PSU criticizes attempts to portray the recipients of the direct benefits of universal service programs, without any qualitative analysis, as low-income, or retired, who lack sufficient means to pay their Columbia gas bill in absence of such programs, and attempt to explain some presumed benefit to businesses and the community indirectly by providing such support.[654]

PSU notes residential gas prices have decreased over the past 13 years and the Company's current rate increase will hit the large commercial and industrial class customers much greater than the residential customers. PSU pointed out there has been no significantly large increase to the residential customer class over the past 13 years. PSU contends the wellhead pricing of natural gas has been down over the past decade, and that impacts the delivered price to residential consumers. Specifically regarding flex customers, PSU argued it would be wholly inappropriate to assign universal service costs to these customers because these non-residential customers receive service under a negotiated contractual agreement at less than

[653] PSU St. No. 1-R at 19:15-20:6.

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

the full tariff rate. The flex rate is still at the maximum amount that Columbia determined is necessary to retain the patronage of the customer, and 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.[655]

d. Rate Design

i. Residential Rate Design

PSU did not offer a position on this issue.

ii. Small C&I Customer Rate Design

PSU did not offer a position on this issue.

iii. Large C&I Customer Rate Design

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

iv. Gas Procurement Charge Rider

PSU did not offer a position on this issue.

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

e. **Bill Impacts**

PSU did not offer a position on this issue.

9. **ALJ's Recommendations on Rate Structure**

a. **Cost of Service Study (COSS)**

The ALJ recommends the Commission use the Peak & Average COSS, as promoted by OCA, in this base rate proceeding. Columbia Gas' Customer Demand COSS would be the preferred method, but it contains serious flaws that skews its reliability and makes it unsuitable for use at this time and with this NGDC. The ALJ agrees with OCA that its Peak & Average COSS corrects the errors in Columbia Gas' COSS and provides a useful guide to allocate distribution mains costs, and to guide the distribution of a revenue increase, if approved. Specifically, the ALJ found OCA's arguments are the most persuasive given the depth of evidence presented in this proceeding. Columbia Gas' arguments to the contrary did not meet the burden of proving the Company's averaged COSS should apply in this proceeding. The Peak & Average COSS' allocation of mains cost is the most appropriate, sound and reasonable method for cost allocation in this proceeding.[656]

The ALJ accepts OCA's Peak & Average ACOSS (seen in its Table 5 attached to Schedule JDM-1) as the most reasonable of the COSS alternatives provided by Columbia Gas and the parties. Especially noteworthy is that the Peak & Average method, when using the Company's or using OCA's COSS, shows that currently the Residential class overpays for its cost of service. In addition to supporting its COSS, OCA also created a separate COSS (in order to verify the strength of the Peak & Average COSS) which used an ACOS allocating mains investment using the Proportional Responsibility (PR) method. The PR method allocates

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[656] *Pa. Pub. Util. Comm'n v. National Fuel Gas Distribution Co.*, 83 Pa. PUC 262, 360 (1994). *See also Pa. Pub. Util. Comm'n v. National Fuel Gas Distribution Co.*, 73 Pa. PUC 552 (1990); *Pa. Pub. Util. Comm'n. v. Equitable Gas Co.*, 73 Pa. PUC 301 (1990); and *Pa .Pub. Util. Comm'n v. Columbia Gas of Pa. Co.*, 69 Pa. PUC 138 (1989). OCA St. 4 at 25.

distribution mains investments based on a recognition that capacity has some value each month, although that value diminishes over the summer with its lower demands.[657] The results from the separate COSS were very similar to OCA's Peak & Average COSS and verify the results are more reasonable and appropriate than the COSSs used by Columbia Gas.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission accept the Peak & Average COSS as provided by OCA. In addition, the ALJ recommends the Commission allocate 50 percent of Columbia Gas' distribution mains system costs on the basis of peak demands with the remaining 50 percent of the Company's distribution mains costs (being related to, or caused by, the Company's annual gas requirements) should be allocated on annual, or average, demands.

b. Revenue Allocation

The COSS study used plays a pivotal role in the allocation of any revenue increase. As pointed out in OCA's testimony (OCA St. 4 at 34-35), COSS is only one factor but other factors are operative here: to provide rate stability and predictability, with as few unexpected changes as possible, i.e., gradualism; provide for the total revenue requirement; public acceptability and feasibility of application; and fairly apportion the total cost of service among the various customer classes.

Because Columbia Gas' proposed revenue allocation is based on the results of its Average COSS, which the ALJ recommends the Commission should determine is unreasonable, the Company's proposed revenue allocation is likewise unreasonable and not a clear reflection of the costs to Columbia Gas for providing service to the various customer classes.

The ALJ agrees with BIE that if the Commission determines to approve less than the full requested increase, then all customer charges and usage rates should be scaled back

[657] OCA St. 4 at 30-31. OCA noted Columbia's sister company, Columbia Gas of Massachusetts, used the same PR method in its ACOS study in that utility's most recent base rate proceeding.

proportionately based on the allocated cost of service study the Commission approves.[658] Accordingly, the ALJ recommends the Commission order a proportional scale back of rates if less than the full increase is granted. However, if the Commission determines a significant rate increase is justified, the ALJ recommends the Commission utilize the proposal of OCA, as set forth in its Table 5 (OCA St. 4 at 35-36).[659]

Table 8.
OCA Proposed Revenue Distribution

Class	Present Rates	Proposed Rates	Increase	Percent	Index
RSS/RDS	$292,185,976	$354,799,715	$62,613,739	21.4%	1.24
SGSS1/SCD1/SGDS1	33,641,932	43,732,252	10,090,320	30.0	1.05
SGSS2/SCD2/SGDS2	38,608,596	50,188,581	11,579,985	30.0	1.10
SDS/LGSS	21,768,524	29,603,438	7,834,914	36.0	0.98
LDS/LGSS	15,319,132	20,832,785	5,513,653	36.0	0.33
MLDS	550,482	550,482	0	0.3	9.94
FLEX	4,877,848	4,891,965	14,117	0.3	(0.55)
Total:	**$406,952,490**	**$504,599,218**	**$97,646,728**	**24.0%**	**1.00**[660]

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission adopt the revenue distribution suggested by OCA.

c. Flex Customers

Currently, Columbia Gas' tariff provides for a discount or "flex rate" to certain customers who can show there is a competitive alternative to receiving natural gas supply from

658 I&E St. No. 3 at 24-25; Columbia St. No. 3-R at 15.

659 It should be noted OCA's Table 5 uses the figures provided by Columbia Gas initially based on its proposal for a base rate increase. Those figures will change based on what the Commission specifies in the Final Order, but the relative allocations should remain the same and would decrease proportionately.

660 OCA St. 4 at 35-36.

Columbia Gas.[661] In these proceedings, Columbia Gas presented schedules which showed revenue from flex rate customers for several rate schedules.[662]

BIE requested the Commission order Columbia Gas to provide an update to the competitive alternative analysis for any customer that has not had their alternative fuel source verified for a period of 10 years or more. The ALJ agrees with this request for the same reasons stated by BIE. From time to time, the utility needs to investigate and analyze competitive alternatives to verify the flex rate is not discounted lower than necessary to avoid the customer choosing the alternative supply. The public interest is not served when a customer or customers receive excessive discounts. These excessive discounts harm Columbia Gas and Columbia Gas' other customers because the other customers must make up the revenue lost when flex rate customers pay less than the tariffed rate.[663] This revenue shortfall must be subsidized, i.e., paid, by customers in the other rate classes because flex customers are not paying the full cost of service rate that they would otherwise be charged absent a verifiable alternative.

Columbia Gas needs to provide an accurate and up-to-date analysis of competitive alternatives to show the flex rate is necessary and reasonable, and to ensure flex rate customers make the maximum contribution to fixed costs.[664]

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission require Columbia Gas to provide an update to the competitive alternative analysis for any customer that has not had their alternative fuel source verified for a period of 10 years or more at the point at which Columbia Gas files its base rate case.

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661 I&E St. No. 3 at 5. In direct testimony, I&E witness Cline cites to the Company's flex-rate provisions in Supplement 221 to Columbia Tariff Gas – PA P.U.C. No. 9, p. 68.

662 I&E St. No. 3 at 5.

663 I&E St. No. 3 at 6.

664 I&E St. No. 3-SR at 5.

d. Allocation of Universal Service Costs

The ALJ notes this issue generated vigorous competing arguments from most of the parties herein. The parties frequently referenced the Commission's recent *Final Policy Statement and Order* (dated November 5, 2019) at Docket M-2019-3012599, which addressed both the type and financing of low-income customer assistance programs. Columbia Gas proposed to fund its universal service costs and continue its existing practice of assigning and recovering the universal service program costs from residential ratepayers using a volumetric 'Rider USP' charge. These charges for the FPFTY are forecasted by the Company to total $26.73 million in universal service costs, or about $5.56 per month for a typical residential customer.[665]

OCA and CAUSE-PA supplied persuasive arguments in favor of allocating the universal service charges to all ratepayers, not just to residential ratepayers, and to allocate those costs among the customer rate classes on a percentage of revenue basis. The arguments center on the impact that low income customers have on other Columbia ratepayers specifically and the economic community in general located within the service territory. OCA noted all rate classes, and actually the whole community, benefit when universal service costs are available and utilized fully by low income customers. Because there is a benefit to all rate classes, these advocates argued there should be an allocation of these costs across all rate classes, and contended that allocation to the residential class only is not required by the Natural Gas Choice and Competition Act or by the Commission's *Final CAP Policy Statement Order.*

However, all other parties disagreed with OCA and CAUSE-PA and opposed allocating USP costs outside of the residential class. Columbia Gas noted only residential customers are eligible to receive USP benefits and, therefore, the USP costs should be borne only by the residential class. OSBA noted the Commission's *Final CAP Policy Statement Order* predated the start of the pandemic, that all segments of the various rate classes have been impacted adversely by the pandemic, not just the residential class, and now may not be the time

665 OSBA Statement No. 1-R, at 3.

to impose a portion of these costs upon commercial and industrial customers who have suffered along with the residential class.

The ALJ recommends the Commission reject the suggestion from OCA and CAUSE-PA that USP costs should be distributed among all the classes. The arguments carry merit and were accompanied by a breadth of evidence presented from its experts. To consider the societal impacts of poverty and low income are slightly outside the bailiwick of a base rate proceeding, absent a clear directive from the Commission to consider these societal and macroeconomic theories in a base rate proceeding. Although the *Final CAP Policy Statement Order* does not ban the allocation of USP costs among the rate classes, more than silence is needed before a base rate proceeding should consider a regulatory issue that carries such wide-ranging policy implications.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission reject the current suggestions from OCA and CAUSE-PA to distribute USP costs among all the rate classes.

e. Residential Rate Design

i. Customer Charge

The Company proposed to increase the Residential customer charge from $16.75 to $23.00, which proposal was supported by BIE but opposed by OCA, CAUSE-PA and CAAP. I recommend the Commission should deny the requested increase to the monthly residential customer charge.

Columbia Gas currently has the highest customer charge among Pennsylvania's natural gas distribution companies. The closest residential customer charge in use by another Pennsylvania NGDC is Peoples Gas Company which charges $15.75 per month. (OCA St. 4 at 37, 38). Columbia Gas currently charges $16.75 per month but through this proceeding seeks the

Commission's permission to charge $23.00 per month, an increase of $6.25 per month, from every residential customer regardless of the customer's income level, ability to pay or consumption. That requested increase is 37% higher than the current customer charge. Columbia Gas claims the basis for this charge results from Columbia Gas' use of the Customer Demand COSS but, as discussed previously in this Recommended Decision, that Cost of Service Study suffers from serious flaws and Columbia Gas has not met its burden of proving the amount of this increase.

In addition, this proposed increase violates the principle of gradualism. An increase of $6.25 per month may not sound like a big increase to Columbia Gas but a one-third spike in a monthly bill, especially for customers who were low-income eligible before the pandemic or for people who have lost their source of income, offends the sensibilities and fits the description of being neither just nor reasonable. These monthly charges cannot be avoided or reduced. No matter what Columbia Gas' residential customers do, they must pay this 37% increase or no longer have access to natural gas in their residence. Columbia Gas' argument that these customers can still lower their bills by turning down the thermostat is disingenuous and ignores the problem: Columbia Gas is using a flawed COSS to support its request for a 37% spike in an unavoidable fixed charge upon its customers at a time when the customers are the least able to afford it.

Arguably, this pandemic has created a financial and economic impact that is unparalleled within the last century, since the Great Depression or the last massive pandemic of 1918. Despite the trauma and unprecedented nature of this pandemic, Columbia Gas contends it is just and reasonable to increase the customer charge to $23.00, which is an amount that is 46% or more higher than all other NGDCs receive.

Columbia Gas' assertions - that CAP will protect the low-income customers from feeling the impact of the increased customer charge – are not supported by the evidence. During this proceeding, Columbia Gas confirmed the low-income status of 61,152 customers out of an estimated total low-income population of 101,375, or approximately 61% of its estimated low-income population. However, CAP serves less than 23% of Columbia Gas' estimated low-

income population. The evidence presented shows 61% of Columbia Gas' CAP customers participate in the Percentage of Bill program, which will not be shielded from the impact of any increase in the monthly bill. Similarly, the customers who do receive CAP may be shielded to some extent from the increased customer charge but only 61% of Columbia Gas' population qualify as low-income and of that number, only 23% of Columbia Gas' low-income population participate in CAP.

Lastly, this high fixed monthly customer charge is contrary to the Commission's spoken goal of encouraging customers to conserve energy and, if approved, the incentive to avoid sticker shock by conserving energy will become anemic.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission deny Columbia Gas' request to increase the customer charge per month.

ii. Weather Normalization Adjustment

The purpose of the WNA is to adjust the temperature sensitive portion of a customer's bill in order to mitigate the impacts of warmer or colder than normal weather.[666] In other words, customers are billed less than what a traditional bill calculation would require during colder than normal heating seasons and billed more during warmer than normal heating seasons.[667]

BIE noted the WNA currently has a 3% "deadband", which the Company proposes to remove in this proceeding.[668] The 3% deadband is a provision the Company agreed to as a part of the 2018 base rate case settlement at Docket No. R-2018-2647577.

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666 Columbia St. No. 3 at 16.

667 Columbia St. No. 3 at 17-18.

668 Columbia St. No. 3 at 19.

The ALJ recommends the Commission deny the Company's proposal to remove the 3% deadband. Under the WNA, the Company can adjust a customer's base rate bill, which was calculated based on Commission-approved rates, outside the scope of a base rate case and without requiring the Commission's approval. The WNA is a departure from traditional ratemaking, which the Commission approved, but this adjustment made without Commission oversight should only occur when circumstances create an extraordinary departure from normal operating conditions, such as abnormal weather. Without an extraordinary set of circumstances, there is no need for Columbia Gas to reconcile the day-to-day temperature variations that are part and parcel with normal business.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission find the 3% deadband is a reasonable provision, because it allows for a range of what is considered "normal" weather in which the Company's Commission-approved rates would be applied without adjustment.[669]

iii. Revenue Normalization Adjustment

Columbia Gas proposed the Commission approve a Revenue Normalization Mechanism (RNA) rider for application to the residential class. An RNA is a tariff provision "designed to 'break the link' between residential non-gas revenue received by the Company and gas consumed by non-CAP residential customers."[670] The Company would calculate and assess the RNA on an entire residential class revenue basis, and not on an individual customer revenue basis. The RNA is an alternative ratemaking mechanism, which Columbia Gas argued was designed to stabilize the Company's revenues and insulate its revenue stream from any changes in the residential class' natural gas usage. However, this recovery on a per-customer basis, not on a usage-basis, undercuts the incentive for residential customers to reduce usage and stymies a customer's ability to stop or slow an increase in the customer's bill.

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669 I&E St. No. 3 at 9.

670 Columbia St. No. 3 at 20.

Through this proposal, the Company hoped to stabilize its revenue level received from customers by enacting a "benchmark distribution revenue level" and adjusting revenues to that point regardless of actual usage levels.[671] The RNA would apply to Columbia's non-CAP residential customers[672] and the Company would set the benchmark distribution revenue levels by month for the peak period (October through March) and off-peak period (April through September) separately, based on the approved revenue requirement.[673]

The ALJ recommends the Commission deny this RNA proposal. Through Act 11 and the FPFTY, the Company is permitted to build a revenue adjustment into its revenue requirement for revenue lost due to a decline in usage. The purpose of revenue stabilization is to remove the inherent risk of not recovering the full amount of revenue requirement allowed by the Commission due to changes in usage. However, Columbia Gas failed to provide sufficient evidence to demonstrate a need for more revenue stabilization measures when Columbia has filed base rate cases frequently, avers it will file base rate cases more frequently moving forward, and given the FPFTY and the DSIC. The Company has not shown the RNA will result in fewer base rate increases, thus removing any benefit from the residential customers.[674] In addition, the Company did not present, explain and support its proposed alternative ratemaking mechanism as required pursuant to the Commission's Statement of Policy (Order entered July 18, 2019; Docket No. M-2015-2518883).[675]

Lastly but most importantly, Columbia Gas failed to prove the RNA Rider is needed and reasonable, or that the RNA Rider will result in rates that are just, reasonable and in the public interest. The Company did not show its current rates and systems of revenue streams will fail to provide revenue stability. Columbia Gas' current system of rates and charges include

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[671] I&E St. No. 3 at 10.

[672] Columbia St. No. 3 at 20.

[673] Columbia St. No. 3 at 20-22.

[674] I&E St. No. 3 at 11.

[675] 52 Pa.Code § 69.3302.

fixed monthly customer charges, a mechanism to adjust the purchased gas cost and a distribution system improvement charge. All of these charges provide Columbia Gas with revenue stability and Columbia Gas did not prove these stability measures are inadequate.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission reject the proposed RNA Rider as contrary to the public interest.

f. Small Commercial & Industrial Customer Rate Design

Columbia Gas argued the customer charge studies produce a range of customer costs from \$25.87 (excluding mains) to \$60.16 (including mains), for Small General Service customers using less than or equal to 6,440 therms annually. Columbia Exhibit No. 111, Schedule 1, pp. 16, 25. Columbia Gas' proposed customer charge of \$30.00 falls just above the bottom of the range of costs. Columbia Gas proposes a volumetric rate of \$5.4497/Dth for SGS-1/SCD-1 service and \$5.3413/Dth for SGDS-1 service. Columbia St. No. 3 at 36-37.

For Small General Service customers using between 6,440 and 64,400 therms annually, Columbia Gas proposes a customer charge of \$60.00, which would be \$12.00 more than the current \$48.00 customer charge. The customer charge studies produced a range of costs from \$43.99 (excluding mains) to \$108.42 (including mains). The Company proposes a volumetric charge of \$4.7467/Dth for SGS-2/SCD-2 service and \$4.6384/Dth for SGDS service.

Columbia Gas argues it is appropriate to include a customer component of mains in the minimum system charge study. Columbia Gas asserts BIE's recommendation is inconsistent with sound ratemaking principles because BIE proposes a customer charge for SGS-2 customers (\$45) that is **lower** than the current customer charges (\$48). Columbia Exhibit MJB-2R. Columbia Gas' current and proposed customer charges for these classes fall within the range of the two customer charge studies and are well below the minimum system charges shown in the customer charge study including mains. Columbia Exhibit No. 111, Schedule 1, p.

16, ln. 41. Columbia Gas' proposed customer charges for Small C&I customers are reasonable and should be approved.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission approve the proposed customer charges because Columbia Gas presented sufficient evidence to prove the charges are reasonable and appropriate, no party provided sufficient evidence to disprove the changes, and the changes will lead to just and reasonable rates.

g. Large Commercial & Industrial Customer Rate Design

Columbia Gas proposed the SDS/LGSS customer charge for customers whose usage is between 64,400 therms and 110,000 therms would be $290.00, which amount is $60.25 more than the current SDS/LGSS customer charge of $229.75. The proposed SDS/LGSS customer charge for customers whose usage is between 110,000 therms and 540,000 therms would be $940.00, which amount is $182.66 more than the current SDS/LGS customer charge of $757.34. The volumetric base rate would be $3.3081/Dth for SDS/LGSS customers whose usage is between 64,400 therms and 110,000 therms, and the volumetric base rate would be $3.0928/Dth for SDS/LGSS for customers whose usage is between 110,000 therms and 540,000 therms. Columbia St. No. 3 at 37-38.

Columbia Gas provided the table below to illustrate the proposed and current customer charges for the LDS/LGSS rate class:

Annual Usage Levels	Current Cust. Charge	Proposed Cust. Charge
> 540,000 to ≤ 1,074,000 Therms	$1,947.06	$2,419.00
> 1,074,000 to ≤ 3,400,000 Therms	$3,028.76	$3,759.00
> 3,400,000 to ≤ 7,500,000 Therms	$5,841.18	$7,248.00
> 7,500,000 Therms	$8,653.60	$10,728.00

Columbia St. No. 3 at 38.

Columbia Gas proposes the volumetric base rate revenue requirement be split among the LDS/LGSS annual usage groups proportionately based on revenue produced from current volumetric base rates. *See* Exhibit 103, Schedule 8, Page 8, Lines 29 through 32. The Company points out that - aside from CII witness Mr. Plank expressing his general view that the overall proposed increase in charges to Rate LDS customers should be limited,[676] and BIE's recommendation there should be no changes to the proposed customer charges for the LDS class because higher usage customers generally favor a higher fixed charge and lower usage charges[677] - no other party recommended any changes to the proposed customer charges for the LDS/LGSS class.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission approve the proposed customer charges because Columbia Gas presented sufficient evidence to prove the proposed charges are reasonable and appropriate, no party provided sufficient evidence to disprove the changes, and the changes will lead to just and reasonable rates.

h. Gas Procurement Charge Rider

Columbia Gas proposed a Gas Procurement Charge (GPC) of $0.00102 per therm and showed the calculations of the proposed GPC in Columbia Exhibit No. MJB-3. No party challenged the Company's proposed GPC.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request, the ALJ recommends the Commission approve the GPC of $0.00102 per therm because Columbia Gas presented sufficient evidence to prove the proposed Rider is reasonable and appropriate.

[676] CII St. No. 1 at 7.

[677] I&E St. No. Cline at 23.

i. Bill Impacts

This issue arose when the Commission issued its Order on August 20, 2020 in this proceeding in which the Commission directed the parties to address two items. First, the parties were to indicate the appropriate amount of rate recovery starting from the end of the Section 1308(d) suspension period (January 23, 2021) until the date the final rates are approved in a final Commission order and take effect in the utility's compliance tariff filing (presumably, February 25, 2021). Second, the parties were to address what should be the appropriate mechanism for implementing such rate recovery.

The only party that briefed or spoke on this issue was Columbia Gas. The Company indicated its intention was to apply the new Commission-approved rates to the usage noted between January 23, 2021 and the date of the Commission's Final Order. The back billing amount would become the difference between the amount calculated at the new rates and amounts actually billed previously at old rates. Columbia Gas did not propose a special rate mechanism would be needed to accomplish its proposed recovery method. Once new base rates are approved and entered in Columbia Gas' billing system, customer-specific billing adjustments will be calculated and added to each customer's bill. The individual billing adjustments will be computed using each customer's consumption for the appropriate period. Columbia Gas noted that, if the Commission were to approve new rates as originally proposed by Columbia Gas, a typical residential customer using 10 therms in a winter month would owe an additional $7.59. Columbia St. No. 3-R at 38. No party objected to Columbia's proposed method of recovery.

Alternatively, if the Commission grants Columbia Gas' request to consider all the elements in its base rate increase request and if the Commission determines the base rate increase should be granted, the ALJ recommends the mechanism should be approved.

VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and subject matter in this proceeding. 66 Pa.C.S.A. §§ 501, 1301, 1308(d).

2. The Commission must consider the broad public interest during a base rate proceeding and apply policy concerning the appropriate balance between prices charged to a utility's customers and returns on capital to the utility's investors. *Popowsky v. Pa. Pub. Util. Comm'n*, 542 Pa. 99, 665 A.2d 808 (1995).

3. The Commission has the authority to determine whether a requested base rate increase is unreasonable and will lead to an unjust and unreasonable rate for a utility's customers, based upon all surrounding circumstances. *Popowsky v. Pa. Pub. Util. Comm'n*, 542 Pa. 99, 665 A.2d 808 (1995).

4. Every rate made, demanded or received by a public utility shall be just and reasonable and in conformity with the regulations and orders of the Commission. 66 Pa.C.S.A. § 1301.

5. The standard of proof, which a public utility must meet, in any proceeding involving a proposed or existing rate is to show that the rate involved is just and reasonable by substantial evidence. 66 Pa.C.S.A. § 315(a).

6. A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. A public utility's rates include every individual charge that utility demands for any service offered, rendered, or furnished by the utility, whether received directly or indirectly. *Metropolitan Edison Co. v. Pa. Pub. Util. Comm'n,* 22 A.3d 353 (Pa.Cmwlth. 2011).

7. The proposed base rate revenue increase of $100.4 million, as shown in the initial filing dated April 24, 2020, is not just and reasonable, as required by 66 Pa.C.S.A. § 1301, and has not been fully supported by Columbia Gas of Pennsylvania, Inc.

VII. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That Columbia Gas of Pennsylvania, Inc. shall not place into effect the rates, rules, and regulations contained in Supplement No. 307 to Tariff Gas-Pa. P.U.C. No. 9, the same having been found to be unjust, unreasonable, and therefore unlawful.

2. That the Formal Complaints filed against the base rate proceeding at R-2020-3018835 by the Office of Consumer Advocate at C-2020-3019702; Office of Small Business Advocate at C-2020-3019714; Columbia Industrial Intervenors at C-2020-3020105; and Pennsylvania State University at C-2020-3020666, are dismissed.

3. That the Formal Complaint filed against the base rate proceeding at R-2020-3018835 by Dr. Richard Collins at Docket No. C-2020-3020207 is dismissed.

4. That the Formal Complaint filed against the base rate proceeding at R-2020-3018835 by Ionut R. Ilie at Docket No. C-2020-3020498, having been withdrawn by Complainant on September 24, 2020 via electronic mail, is to be marked withdrawn.

5. That the investigation at Docket No. R-2020-3018835 shall be terminated and the record shall be marked closed.

Date: December 4, 2020

/s/
Katrina L. Dunderdale
Administrative Law Judge

Appendix A

Columbia Gas of Pennsylvania, Inc.

The April 24, 2020 initial filing, which included: Exhibits 1-17, 101-117 and 400-414 Standard Data Responses COS 1-21, ROR 1-23 and RR 1-55

Columbia Statement No. 1, the Direct Testimony of Michael Huwar, and Exhibit MWH-1, as adopted by Andrew Tubbs

Columbia Statement No. 1-SR, the Surrebuttal Testimony of Andrew Tubbs

Columbia Statement No. 1-R, the Redacted Rebuttal Testimony of Andrew Tubbs and Exhibits AST-1R, AST-2R, AST-3R, AST-4R, AST-5R, AST-6R and AST-11R, dated September 24, 2020

Highly Confidential Columbia Statement No. 1-RJ, the Redacted Rejoinder Testimony of Andrew Tubbs, dated September 24, 2020

Columbia Statement No. 2, the Direct Testimony of Mahamadou Bikienga

Columbia Statement No. 3, the Direct Testimony of Melissa Bell and Exhibits MJB-1 through MJB-7

Columbia Statement No. 3-R, the Rebuttal Testimony of Melissa Bell and Exhibits MJB-1R through MJB-2R

Columbia Statement No. 4, the Direct Testimony of Kelly Miller and Exhibit KKM-1

Columbia Statement No. 4-R, the Rebuttal Testimony of Kelly Miller and Exhibits KKM-1R, **Confidential** Exhibit KKM-2R, Exhibit KKM-3R and Exhibit KKM-4R

Columbia Statement No. 5, the Direct Testimony of John Spanos and Exhibit JJS-1

Columbia Statement No. 5-R, the Rebuttal Testimony of John Spanos

Columbia Statement No. 6, the Direct Testimony of Nicole Shultz and Exhibits NMS-1 through NMS-4

Columbia Statement No. 6-R, the Rebuttal Testimony of Nicole Shultz Columbia Statement No. 7, the Direct Testimony of Michael Davidson

Columbia Statement No. 7-R, the Rebuttal Testimony of Michael Davidson and Exhibits MJD-1R through MJD-3R

Columbia Statement No. 8, the Direct Testimony of Paul Moul and Exhibit PRM-1

Columbia Statement No. 8-R, the Rebuttal Testimony of Paul Moul and Exhibits PRM-1R, PRM-2R and updated Exhibit 400

Columbia Statement No. 8-SR, the Surrebuttal Testimony of Paul Moul

Columbia Statement No. 9, the Direct Testimony of Nancy Krajovic and Exhibit No. NJDK-1

Columbia Statement No. 9-R, the Rebuttal Testimony of Nancy Krajovic and Exhibits NJDK-1R through NJDK-7R and 2nd revised Exhibit 104

Columbia Statement No. 10, the Direct Testimony of Jennifer Harding

Columbia Statement No. 11, the Direct Testimony of Chad Notestone and Exhibits CEN-1 through CEN-4

Columbia Statement No. 11-R, the Rebuttal Testimony of Chad Notestone

Columbia Statement No. 12, the Direct Testimony of Shirley Bardes Hasson

Columbia Statement No. 12-R, the Rebuttal Testimony of Shirley Bardes Hasson and Exhibits SBH-1R and SBH-2R

Columbia Statement No. 13, the Direct Testimony of Deborah Davis

Columbia Statement No. 13-R, the Rebuttal Testimony of Deborah Davis and Exhibits DAD-1R and DAD-2R

Columbia Statement No. 13-SR, the Surrebuttal Testimony of Deborah Davis

Columbia Statement No. 14, the Direct Testimony of Robert Kitchell

Columbia Statement No. 14-R, the Rebuttal Testimony of Robert Kitchell

Columbia Statement No. 15-R, the Rebuttal Testimony of Kimberly Cartella

Columbia Statement No. 16-R, the Rebuttal Testimony of James Cawley and Exhibits JHC-1 and JHC-2

Columbia Statement No. 16-RJ, the Rejoinder Testimony of James Cawley and Exhibits JHC-3 and JHC-4

Columbia Statement No. 17-R, the Rebuttal Testimony of Toby Bishop and Exhibit TB-1

Columbia Exhibit NJDK-1RJ, as provided for in the stipulation between Columbia and the Bureau of Investigation and Enforcement, dated September 21, 2020

Also, Columbia Gas "GAS-RR-026-Rev," filed August 26, 2020, which revises GAS-RR-026 included with the Company's initial filing

Bureau of Investigation and Enforcement

I&E Statement No. 1: the Direct Testimony of John Zalesky

I&E Exhibit No. 1: the Exhibit to accompany the Direct Testimony of John Zalesky (**Proprietary**)

I&E Exhibit No. 1: the Exhibit to accompany the Direct Testimony of John Zalesky (**Non-Proprietary**)

I&E Statement No. 1-SR: the Surrebuttal Testimony of John Zalesky with the Verification Statement of John Zalesky

I&E Statement No. 2: the Direct Testimony of Christopher Keller and I&E Exhibit No. 2

I&E Statement No. 2-SR: the Surrebuttal Testimony of Christopher Keller with the Verification Statement of Christopher Keller

I&E Statement No. 3: the Direct Testimony of Ethan H. Cline

I&E Statement No. 3-SR: the Surrebuttal Testimony of Ethan H. Cline with the Verification Statement of Ethan H. Cline

I&E Statement No. 4: the Direct Testimony of Lassine Niambele and I&E Exhibit No. 4

I&E Statement No. 4-SR: the Surrebuttal Testimony of Lassine Niambele with the Verification Statement of Lassine Niambele

I&E Statement No. 5: the Direct Testimony of Kokou M. Apetoh and I&E Exhibit No. 5

I&E Statement No. 5-SR: the Surrebuttal Testimony of Kokou M. Apetoh with the Verification Statement of Kokou M. Apetoh

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania

CAUSE-PA Statement 1, the Direct Testimony of Mitchell Miller with Appendix A: Resume of Mitchell Miller, Appendix B: Cited Responses to Interrogatories, and Appendix C: Energy Assistance Summary Report, May 9, 2020, p. 68 of 136

CAUSE-PA Statement 1-SR, the Surrebuttal Testimony of Mitchell Miller

Office of Consumer Advocate

OCA Statement No. 1, the Direct Testimony of Mr. Scott J. Rubin, with Appendix A and Exhibits SJR-1 through SJR-5

OCA Statement No. 1-S, the Surrebuttal Testimony of Scott J. Rubin, and Exhibit SJR-6S.

OCA Statement No. 2, the Direct Testimony of Mr. David J. Effron, and Appendix 1

OCA Statement No. 2-S, the Surrebuttal Testimony of David J. Effron, and Tables I and II, Schedules A, B, B-1, C, C-1, C-1.1, C-2, C-3, C-4, and D

OCA Statement No. 3, the Direct Testimony of Mr. Kevin W. O'Donnell, and Appendix A and Exhibits KWO-1 through KWO-5.

OCA Statement No. 3-R, the Rebuttal Testimony of Kevin W. O'Donnell

OCA Statement No. 3-S, the Surrebuttal Testimony of Kevin W. O'Donnell and Exhibits KWO-1S through KWO-4S

OCA Statement No. 4, the Direct Testimony of Mr. Jerome D. Mierzwa and Exhibits JDM-1 through JDM-3

OCA Statement No. 4-R, the Rebuttal Testimony of Jerome D. Mierzwa

OCA Statement No. 4-S, the Surrebuttal Testimony of Jerome D. Mierzwa

OCA Statement No. 5, the Direct Testimony of Mr. Roger D. Colton, with Appendix A and Exhibits RDC-1 through RDC-6

OCA Statement No. 5-S, the Surrebuttal Testimony of Roger D. Colton

Office of Small Business Advocate

OSBA Statement No. 1, the Direct Testimony and Exhibits of Robert D. Knecht, **Public Version**, with Exhibits IEc-1 through IEc-2

OSBA Statement No. 1, the Direct Testimony and Exhibits of Robert D. Knecht, **Highly Confidential Version** with Exhibits IEc-1 through IEc-2

OSBA Statement No. 1-R, the Rebuttal Testimony and Exhibit of Robert D. Knecht with Exhibit IEc-R1

OSBA Statement No. 1-S, the Surrebuttal Testimony and Exhibit of Robert D. Knecht, **Public Version** with Exhibit IEc-S1

OSBA Statement No.1-S, the Surrebuttal Testimony and Exhibit of Robert D. Knecht, **Highly Confidential Version** with Exhibit IEc-S1

Columbia Industrial Intervenors (CII)

CII Statement No. 1 – Direct Testimony of Frank Plank

CII Statement No. 1-R – Rebuttal Testimony of Frank Plank

Verification of CII Witness Frank Plank

Community Action Association of Pennsylvania

CAAP Statement No. 1 – the Direct Testimony of Susan A. Moore

CAAP Statement No. 1-R – the Rebuttal Testimony of Susan A. Moore

Verification of Susan A. Moore

Pennsylvania State University

PSU St. No. 1 – the Direct Testimony of James Crist with PSU Exhibit No. D-1 and the *Curriculum Vitae* of James Crist

PSU St. No. 1-R – Rebuttal Testimony of James Crist

PSU St. No. 1-SR – Surrebuttal Testimony of James Crist