



December 30, 2020

VIA E-File

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, Filing Room
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.
Docket No. R-2020-3018835
Reply Exceptions of CAUSE-PA

Dear Secretary Chiavetta,

Enclosed, please find the **Reply Exceptions of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** in the above noted proceeding.

Pursuant to the Commission's Emergency Order issued on March 20, 2020, and as indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully,

A handwritten signature in blue ink that reads "Elizabeth R. Marx". The signature is fluid and cursive, with the first name being the most prominent.

Elizabeth R. Marx, Esq.
Counsel for CAUSE-PA

CC: *Certificate of Service*
Office of Special Assistants (OSA), ra-OSA@pa.gov

I. INTRODUCTION

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel at the Pennsylvania Utility Law Project, files these brief Reply Exceptions to the Exceptions of Columbia Gas, Inc. (Columbia) in the captioned proceeding. Specifically, CAUSE-PA files in response to Columbia's *Exceptions No. 1 and No. 2*. Given the lack of new or novel argument, CAUSE-PA's Reply Exceptions are brief, and serve only to highlight the extensive record evidence and arguments previously briefed by CAUSE-PA and other parties which formed the basis of Administrative Law Judge Katrina Dunderdale's well-reasoned Recommended Decision denying Columbia's proposed rate increase.

II. REPLY TO EXCEPTIONS

CAUSE-PA Response to Columbia Exception 1

In its *Exception No. 1*, Columbia argues that Administrative Law Judge Katrina Dunderdale erred by denying Columbia's proposed rate increase without applying Columbia's proposed ratemaking formula in the Recommended Decision.¹ Columbia's Exception 1 lacks merit and should be rejected in favor of ALJ Dunderdale's legally sound and inherently prudent decision to deny Columbia's proposed increase. The Commonwealth Court has explicitly stated, "[T]he term 'just and reasonable' was not intended to confine the ambit of regulatory discretion to an absolute or mathematical formulation."² Further, the Commission has discretion to determine the proper balance between interests of ratepayers and utilities and must consider broad public interests in the rate-making process.³

¹ See Columbia Exceptions at 3-7.

² *Popowsky v. Pa. PUC*, 542 Pa. 99, 108 (1995) (emphasis added); see also 66 Pa. C.S. § 1301.

³ *Id.* at 107-108

As explained at length in CAUSE-PA's Main and Reply Briefs, it is unjust and unreasonable to raise rates as the pandemic is still unfolding, especially for low-income customers who have been hit hardest by the economic and health consequences of the COVID-19 pandemic.⁴ Even in relatively good economic times, low income families struggle to afford basic necessities and are often forced to make impossible tradeoffs between rent, food, medicine, and utility service. The pandemic has exponentially worsened those struggles.⁵ It is both unjust and unreasonable to further compound these customer's struggles by increasing rates for heat and hot water, both of which are critically necessary to keep families safe through the pandemic and beyond.⁶

Columbia asserts that it is mindful of the effects of the pandemic on its customers and states that it is working to help its struggling customers.⁷ However, as demonstrated on the record in this proceeding, the incremental steps that Columbia has taken to address the crisis are wholly inadequate to address existing, longstanding unaffordability – let alone the compounding unaffordability that would be created by approving an additional rate increase in the midst of this unprecedented economic crisis. Columbia has opposed nearly all recommendations of the parties in this proceeding – including recommendations Columbia previously agreed to in its last base rate case - that would help remediate existing unaffordability and would provide meaningful assistance to Columbia's economically vulnerable consumers.⁸ The inadequacies of Columbia's response are evidenced by the continued growth of arrearages, especially among low-income customers, as well as its disproportionate confirmed low income and CAP termination rates.⁹

⁴ CAUSE-PA MB at 6-11; CAUSE-PA RB at 3-6.

⁵ CAUSE-PA MB at 7-8.

⁶ CAUSE-PA MB at 9-10; CAUSE-PA RB at 5-6.

⁷ Columbia Exceptions at 5.

⁸ CAUSE-PA RB at 6.

⁹ CAUSE-PA MB at 8-10

In reality, as the record in this proceeding demonstrates, Columbia’s existing universal service programs are categorically unaffordable according to the Commission’s established affordability standards, and enrollment in the program has remained stagnant for a decade.¹⁰ Yet, Columbia has rejected calls to lower its CAP energy burdens or to increase its CAP outreach, despite the impact of COVID-19 and the fact that Columbia had agreed to adopt the Commission’s affordability standards in its last rate case.¹¹

Despite its assertion that it appreciates and is responsive to the needs of its consumers, Columbia attempts to discount the impact of COVID-19 on its customer base - asserting that the alarming unemployment statistics cited by OCA proves only that other customers are still working and able to pay increased rates.¹² This assertion underscores the sound conclusion of the ALJ and the assertions of the parties that Columbia fails to understand or consider the gravity of the economic devastation its customers currently face. The measure of reasonableness must not be whether some customers can afford to access service – it must be whether a utility's rates, policies, programs, and procedures allow for all customers to access service.¹³ Indeed, this principle is fundamental to the promise of universal service that the Commission is charged to protect.¹⁴ The unprecedented economic impact of COVID-19 has hit low wage workers the hardest, and driven many more families into poverty who were previously surviving on the margins.¹⁵ As the record shows, these families cannot shoulder the additional burden of increased rates, and it would be both unjust and unreasonable to increase rates at this time –

¹⁰ CAUSE-PA MB at 11-24.

¹¹ CAUSE-PA MB at 11-15, 20-23; CAUSE-PA RB at 10-15.

¹² OCA MB at 14

¹³ See 66 Pa. C.S. § 2802 (defining universal service and energy conservation), 2803(1) (“The commission shall adopt and enforce standards as necessary to ensure continuation of the safety and reliability of the natural gas supply and distribution service to all retail gas customers.”), 2803(7), 2803(8)

¹⁴ See id.

¹⁵ CAUSE-PA RB at 5; CAUSE-PA MB at 6-10, 35-36, 43-45; OCA MB at 15

especially without substantial reforms to Columbia’s universal service programs to ensure low income customers can maintain service to their home.

Columbia further attempts to discount the impact of the pandemic on its customers by pointing out that customers who have lost their jobs have received government support.¹⁶ However, as CAUSE-PA witness Mitchell Miller pointed out in testimony: “While there have been a number of efforts to funnel resources and assistance to impacted households through various federal relief packages, it is yet unclear whether and to what extent these efforts will help to stave off the potential for deep, widespread poverty as a result of the pandemic.”¹⁷ This statement still holds true, as the government relief packages thus far have provided only temporary, short term relief. But in any event, the existence of government assistance does not relieve Columbia of its obligation to provide affordable rates to its customers – nor does it alleviate the Commission of its duty to protect the public interest and ensure that all rates charged are just, reasonable, and universally accessible to those in need.

Columbia also asserts that the RD fails to consider that “customers who have experienced a reduction or loss of their incomes are eligible to apply for CAP.”¹⁸ However, as explained above, and at length in CAUSE-PA’s briefs, a majority of Columbia’s CAP customers will experience an increase in rates as a result of any approved rate increase. Moreover, not all of low income customers qualify for CAP and, even so, CAP only reaches a small percentage of those who qualify.¹⁹ Furthermore, even for those who qualify and are able to enroll, Columbia’s CAP rates remain categorically unaffordable according to the Commission’s standards.²⁰ Again, Columbia

¹⁶ Columbia Exceptions at 6.

¹⁷ CAUSE-PA St. 1 at 15.

¹⁸ Columbia Exceptions at 6.

¹⁹ CAUSE-PA MB at 20-24; CAUSE-PA RB at 12-15.

²⁰ CAUSE-PA MB at 11-20; CAUSE-PA RB at 7-12.

has continually refused to remediate these identified problems throughout the course of this proceeding.²¹

Columbia asserts that the RD fails to appreciate that if no increase is granted here, Columbia will just add an additional \$100 million to its next base rate filing.²² This is, of course, Columbia's right to do. However, as with any request for a rate increase, Columbia will have to prove its case for why such an increase is just and reasonable, and fully supported by substantial evidence. Columbia has succeeded in raising rates exponentially over the last decade – with substantial rate increases awarded seven times in the last ten years. Hopefully, by the time Columbia files its next rate case, the global pandemic will have subsided from its current levels and the economic impacts will be better understood. If so, the Commission and stakeholders will be able to perform a meaningful review and determine whether Columbia's proposal is just and reasonable based on the current circumstances at that time. Indeed, no party has ever argued that Columbia never be allowed to raise rates, only that now is not the appropriate time.²³

CAUSE-PA Response to Columbia Exception 2

In its *Exception No. 2*, Columbia argues that ALJ Dunderdale improperly concluded that its projection was not reliable – and asserts that the Recommended Decision “points to no evidence that Columbia's projections are unreliable.”²⁴

However, the RD cited substantial evidence that the data used by Columbia is no longer valid, including the worsening of the pandemic and its impact on society and businesses –

²¹ See Columbia RB at 60-73.

²² Columbia Exceptions at 6.

²³ CAUSE-PA RB at 5-6.

²⁴ Columbia Exceptions at 7-8.

including those in Columbia's service territory.²⁵ ALJ Dunderdale explained that "Columbia Gas presented data and made future projections using data from before the pandemic."²⁶ Based on this finding, ALJ Dunderdale concluded:

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.²⁷

The RD further explains that the historic data used by Columbia to develop its projections was no longer valid because it predates the COVID-19 pandemic.²⁸ Indeed, there is little doubt that the world today is a drastically different place today than it was in early 2020 and the future is as uncertain as it has ever been.²⁹ At no point during the proceeding did Columbia attempt to adjust its projections to account for the far-ranging economic impacts of the pandemic. Columbia has opted instead to push ahead, assuming that it will be able to spend and earn unimpeded by the pandemic that has crippled nearly every other business in the Commonwealth and brought the states' economy to a near standstill.³⁰ ALJ Dunderdale was therefore correct to conclude that Columbia's projections are no longer reliable due to intervening circumstances, and appropriately concluded that Columbia failed to meet its burden of proof to support its request for a substantial rate increase in the midst of deep, unprecedented, and unpredictable economic crisis.

²⁵ RD at 50.

²⁶ *Id.*

²⁷ RD at 50.

²⁸ *Id.*

²⁹ CAUSE-PA MB at 6-11.

³⁰ *Id.* at 6-11; OSBA RB at 4.

III. CONCLUSION

For the foregoing reasons, and as thoroughly explained in CAUSE-PA's Main and Reply Briefs, Columbia's Exceptions should be denied and the proposed rate increase should be rejected in accordance with the Recommended Decision.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT

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December 30, 2020

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

Certificate of Service

I hereby certify that I have this day served copies of the **Reply Exceptions of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54 and consistent with the Commission’s March 20 Emergency Order at Docket M-2020-3019262.

VIA Email

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