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December 30, 2020

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Exceptions in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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Enclosures:
cc: The Honorable Katrina L. Dunderdale **(email only)**
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*301333

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Reply Exceptions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 30th day of December 2020.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	Docket Nos. R-2020-3018835
Office of Small Business Advocate,	:	C-2020-3019702
Office of Consumer Advocate	:	C-2020-3019714
	:	
v.	:	
	:	
Columbia Gas Pennsylvania, Inc.	:	

REPLY EXCEPTIONS OF THE OFFICE OF CONSUMER ADVOCATE

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Dated: December 30, 2020

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I. INTRODUCTION

On December 4, 2020, the Office of Administrative Law Judge issued the Recommended Decision (R.D.) of Administrative Law Judge Katrina L. Dunderdale (Judge Dunderdale). In the R.D., Judge Dunderdale held that Columbia failed to carry its burden of proof to show that any revenue increase during the continuing COVID-19 pandemic would result in just and reasonable rates. Exceptions were filed by Columbia, I&E, OSBA, PSU and CAUSE-PA to the R.D. on December 22, 2020. The OCA submits these Reply Exceptions to address the Exceptions of the other Parties, primarily those of Columbia. The OCA has provided extensive discussions of the issues in its Main Brief and Reply Brief in this proceeding. The OCA submits that Judge Dunderdale has reached the right conclusion on the overall recommendation as to the rate increase request, as well as on the alternative recommendation discussed in the R.D.

II. REPLY EXCEPTIONS

Reply to Columbia Exception No. 1: Judge Dunderdale Did Not Err in Concluding That Columbia's Proposed Rate Increase Could Be Denied Without Applying the Traditional Ratemaking Formula. (R.D. at 13-52; OCA M.B. at 13-29; OCA R.B. at 2-17; Columbia Exc. at 3-7)

In Exceptions, Columbia argues that Judge Dunderdale erred in concluding that a rate increase request could be denied without applying the standard ratemaking formula. Columbia Exc. at 3. Specifically, Columbia argues that "[t]he ratemaking formula is designed to guide that process and determine the return at current rates" and a rate increase request determination without it lacks the fundamental analysis used to determine if a rate increase is necessary. Id. at 4. The Company also erroneously asserts that Section 1301 of the Public Utility Code, 66 Pa. C.S. Section 1301, requires the Commission to apply the ratemaking formula. Columbia Exc. at 4, fn. 6. The Company has presented no Commission regulation or Commission order that requires the Commission to blindly apply a ratemaking formula as Columbia would like it in its determination

of just and reasonable rates under Section 1301.[1] Judge Dunderdale was correct in concluding that the Commission possesses authority and discretion to deny a rate increase request when the utility fails to meet its burden of providing substantial evidence that new rates would be just and reasonable so long as rates are not confiscatory from a constitutional standpoint. R.D. at 50-51. Indeed, when Judge Dunderdale examined Columbia's current revenues and expenses, she concluded that the Company's current revenues were sufficient to cover its costs and provide a return. Judge Dunderdale examined the case in full and determined that Columbia failed to meet its burden of proving, with substantial evidence, the accuracy of its pre-pandemic projections and that a rate increase would lead to just and reasonable rates. R.D. at 50-51; Columbia Exc. at 1. The OCA submits that the case law discussed in the R.D. and the OCA's briefs, as well as the evidence presented in this case, supports Judge Dunderdale's conclusion that the Commission has the authority and discretion in this matter to deny the Company's rate increase request. R.D. at 49-51.

Columbia further argues that an approximate 5.52% overall return and 6.52% return on equity for the FPFTY at existing rates is not a fair rate of return and unconstitutional and that the R.D. "improperly concludes, without any market-based evidence, that the very low returns for the FPFTY at present rates would not be confiscatory," but the Company did not introduce any evidence to counter the evidence provided by the OCA that it could continue to provide safe, efficient, and adequate service at current rates and still have an opportunity to earn a fair rate of return. R.D. at 51; OCA R.B. at 2; OCA St. 1 at 23. There is simply no basis, in law or evidence,

[1] Recently, in Pa. PUC v. PGW, Docket No. R-2020-3017206 at 16 (Order entered Nov. 19, 2020) (PGW), the Commission, citing to Popowsky v. Pa. PUC, 683 A.2d 958, 961 (Pa. Cmwlth. 1996), stated "[t]here is no single way to arrive at just and reasonable rates, and '[t]he [Commission] has broad discretion in determining whether rates are reasonable' and 'is vested with discretion to decide what factors it will consider in setting or evaluating a utility's rates.'"

for concluding that the denial of Columbia's requested rate increase in this case is unconstitutional or confiscatory.[2] As provided in the Main Brief of the OCA and echoed in the R.D., 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."[3] Additionally, "[t]he ratemaking 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."[4] In arriving at her recommendation for just and reasonable rates, Judge Dunderdale balanced the interests of ratepayers, the utility, and its investors, evaluated the Company's constitutional claims, and properly concluded that Columbia can continue to provide safe, efficient, and adequate service and earn a fair rate of return at current rates. R.D. at 49-51.

The Company also argues that the R.D. does not consider the consequences the rejection of its rate increase request will have on the Company, its customers, and public policy. Columbia Exc. at 5-7. Columbia argues that it plans to spend $289 million on pipe replacements and other LTIIP-approved investments in the FPFTY and it cannot reasonably be expected to be able to finance such investment based upon an opportunity to earn a 6.53% equity return that assumes Columbia will only invest in $261 million in plant in the FPFTY. Id at 6. Judge Dunderdale properly concluded that the Company's FPFTY spending claim made before the pandemic is, without support, significantly higher than the past three years and, if the Company files for a rate

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[2] To invoke constitutional protection from confiscatory rates, it is not sufficient for a utility to merely assert in general language that rates are confiscatory. Public Service Com. v. Great Northern Utilities Co., 289 U.S. 130 at 136-37 (1933). The utility must specifically set forth facts that make clear that the rates would necessarily deny it just compensation and deprive it of its property without due process of law. Id. (citing Aetna Insurance Co. v. Hyde, 275 U.S. 440, 447. P. 136).

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

[4] Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944).

increase in 2021 as it plans, it can request to recover plant spending from its FPFTY—the 12-month period ending December 31, 2021.[5] R.D. at 51 and 58; OCA R.B. at 15-17. The OCA submits that Columbia's further claim that the denial of its current rate increase request will only serve to compound its next base rate increase case in 2021, where it will request the $100 million from this case along with an additional $50-$75 million, is also speculative and without merit.[6] Columbia Exc. at 7. Additionally, Columbia's claim that its DSIC will reach 5% by January 1, 2021 and it will not earn a return on part of its FTY plant investment and any of its FPFTY plant investment does not recognize the actual intent and purpose of the DSIC which is to reduce some regulatory lag until the utility's next base rate case. Columbia Exc. at 6-7. The DSIC is not intended to provide the utility with a full return on every dollar spent on eligible plant investment as soon as it is made. While the Company's concerns about the consequences of the denial of its rate increase request are largely speculative, under the R.D. the Company will still (1) receive enough revenue at current rates to continue its operations and earn a profit, (2) recover infrastructure investments through the DSIC, and (3) have management decisions available to conserve money during these extraordinary times. R.D. at 50-51; OCA M.B. at 20; OCA R.B. at 14-15.

The core of the R.D. is that the evidence presented in this case supports the conclusion that the Covid-19 pandemic is a significant social-economic event which, as Judge Dunderdale stated: "has obscured its financial, economic and social impacts" and "[u]ntil the pandemic eases, it will

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[5] In addition, as OCA witness Scott Rubin testified, the Company can defer construction projects that are not needed to ensure the current provision of safe and reliable service to existing customers, such as growth-related projects or system rehabilitation activities that are longer-term in nature. OCA St. 1 at 26.

[6] In this case, under a "business-as-usual" approach, the OCA found Columbia should only receive a $31 million increase. See OCA St. 2-S at 2; see also, OCA M.B. at 4. The OCA submits that the $100.4 million increase requested by the Company is vastly overstated. Each rate case must be judged on its own merits, and one cannot predict what the economy will look like when Columbia next files.

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." R.D. at 50. The Company filed this base rate increase request knowing it had the burden of proving with substantial evidence that its FPFTY projections would lead to just and reasonable rates and it did not adjust any of its projections in light of the information available on the pandemic's effects. Judge Dunderdale properly denied the rate increase request because the Company failed to meet its burden of proof. Id. at 49-51.

Reply to I&E Exception No. 1: Judge Dunderdale Did Not Err in Denying Columbia's Unsupported Rate Increase Request. (R.D. at 13-52; OCA M.B. at 13-29; OCA R.B. at 2-15; I&E Exc. at 3-7)

I&E argues that Judge Dunderdale's R.D., denying Columbia's rate increase in full, does not abide by traditional ratemaking standards and that the Covid-19 pandemic has no effect on just and reasonable rates under the constitutional standards set out in Bluefield Water Works & Improvements Co. v. Public Service Comm. of West Virginia, 292 U.S. 679, 692-93 (1923) and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 603 (1944). I&E Exc. at 6. To the contrary, and as set forth in the OCA's Main Brief and Reply Brief, traditional ratemaking standards require a balance between the interests of all relevant sectors of the public and, in doing so, regulators must factor in the changes in market forces and the economy.[7] OCA M.B. at 26; OCA R.B. at 14-15; OCA St. 1 at 5 and 9.

In support of its contention, I&E relies heavily on the Commission's prior approvals of the recent PGW base rate case settlement and a few other Pennsylvania utility base rate increases that

[7] OCA witness Scott Rubin testified: "[i]f regulation is supposed to be a substitute for market forces, then we must recognize that except for those commodities experiencing significant imbalances of supply and demand due to the pandemic, competitive businesses cannot sustainably raise prices when their customers' incomes have decreased significantly…Simply stated, what may have been a "just and reasonable" rate earlier this year may be unreasonable today." OCA St. 1 at 9.

were *settled* between the parties involved. I&E Exc. at 10-11.[8] I&E appears to argue that the recommended modifications by the Administrative Law Judges to the partial settlement in PGW—which were aimed at providing further relief to customers struggling financially from the Covid-19 pandemic—were rejected by the Commission because such a factor does not fit into the traditional ratemaking model and they would interfere with PGW's financial ability to provide safe, efficient, and adequate service to its customers. I&E Exc. at 8-11. While the Commission agreed with PGW, a cash-flow company and not an investor-owned utility, that the ALJs' recommended modifications to the partial settlement to delay the phase in for an additional six months would have negative impacts on PGW's financial metrics and ability to pay its bills, the modifications were rejected because the partial settlement reached was a compromise between the parties and in the public interest and the Commission did not want to disturb the settlement and possibly contravene its own policy statement encouraging settlements.[9] PGW at 68-69. Judge Dunderdale was correct in her statement that the Commission may deny a rate increase without reviewing all elements of the request and I&E's contention that the Commission should only ever apply the standard ratemaking methodology[10] unless the Commission directs the parties otherwise is misplaced. R.D. at 50; see also I&E Exc. at 6.

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[8] In PGW, the Commission rejected the ALJs' well-meaning modifications of the partial settlement because the parties to the partial settlement persuasively urged the Commission "that the many benefits of the Partial Settlement represent a fair compromise of the Parties' respective positions and an accord that is consistent with the public interest" and the ALJs' postponement of the three phased-in rate implementation dates was "not warranted or advisable." Pa. PUC v. PGW, Dock. No. R-2020-3017206, at 66 (Order entered Nov. 19, 2020) (PGW).

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[9] The PGW Order provided: "[t]he scale of settlement was well-balanced and is supported by substantial evidence of record. We decline to upset that careful balance reached by stakeholders representing all of the varied interests." PGW at 70-71.

[10] The OCA notes that in both UGI and PGW the Commission approved settlements that included phased in revenue increases that are not consistent with "traditional ratemaking models." See, Pa. PUC v. UGI, Dock. No. R-2019-3015162 (Order entered Oct. 8 2020); PGW.

I&E additionally argues that, "[i]n order to maintain the safety and integrity of the system, it is likely that Columbia will need an increase in revenues to stay on track for its pipeline replacement efforts outlined in its Commission approved LTIIP." I&E Exc. at 7. This statement is speculative and does not address Judge Dunderdale's conclusion that Columbia failed to meet its burden of proving that its requested increase would lead to just and reasonable rates in this proceeding. Nonetheless, as recognized by Judge Dunderdale in the R.D., Columbia can also fully utilize the DSIC—and, if necessary, request to have it's 5% cap waived—if it falls short of funds for DSIC-eligible plant investments before its next base rate increase. R.D. at 51 and 62-63. In addition, as testified by OCA witness Scott Rubin:

> …one obvious way to preserve cash is to defer construction projects that are not needed to ensure the current provision of safe and reliable service to existing customers. For example, growth-related projects or system rehabilitation activities that are longer-term in nature (that is, projects that are not needed to ensure current levels of service within the next six to 12 months) could be delayed by several months to preserve cash, if necessary."

OCA St. 1 at 26. The OCA submits that Judge Dunderdale properly concluded that Columbia's current rates will provide sufficient funds—under constitutional requirements—to provide safe, efficient, and adequate service. R.D. at 49-51.

Reply to Columbia Exception No. 2: Judge Dunderdale was Correct in Concluding that Columbia Failed to Prove the Accuracy of Its FPFTY Projections Made Prior to the Covid-19 Pandemic. (R.D. at 50; OCA M.B. at 26-28; OCA. R.B. at 16; Columbia Exc. at 7)

Judge Dunderdale properly concluded that the Company cannot prove the accuracy of its projections made prior to the COVID-19 pandemic. R.D. at 50. Columbia argues that this conclusion is factually erroneous, places an impossible burden on the utility, and would nullify the entire concept of the FPFTY. Columbia Exc. at 7-8. Columbia cites to UGI Electric to argue that the Legislature has previously addressed how the Commission can adjust inaccuracies between the

Company's FPFTY projects and actual results.[11] The OCA submits that this case is inapplicable to Judge Dunderdale's determination in this matter because this case involves the determination of just and reasonable rates during an unprecedented pandemic and the Company failed to introduce any evidence to reflect the effects of the pandemic on the FPFTY projections. The holding in UGI Electric does not remove the Company's burden of proving its FPFTY projections are reasonable and reliable and Judge Dunderdale was correct in concluding that the Company failed to prove the accuracy of its projections made prior to the COVID-19 pandemic.

Reply to Columbia Exception No. 3: Judge Dunderdale Did Not Err in Reducing the FPFTY Plant By Using a Three-Year Average. (R.D. at 58; OCA M.B. at 29-30; OCA R.B. at 15-17; Columbia Exc. at 10)

Judge Dunderdale properly reduced the FPFTY plant-in-service rate base by $76,783,000 using a three-year spending average from 2018 to 2020 given that Columbia failed to prove why its projected cost of plant additions for 2021 is significantly higher in comparison with the actual spending for 2018 and 2019 and projected spending for 2020 and the Company can utilize its DSIC to recover any expenses made by Columbia in excess of the lowered projection. R.D. at 57-58. The Company argues that Judge Dunderdale erred in her reasoning that it "is in the public interest because customers will not have to pay for plant that is not service (sic) in the event actual additions are not as high as expected" because no party offered evidence that Columbia cannot reach its projected FPFTY spending. Columbia Exc. at 10-11; R.D. at 58. The OCA submits that this case involves a lack of substantial evidence provided by the Company regarding its projected cost of plant additions and Judge Dunderdale's reasonable recommendation, based on the Company's prior plant additions spending, not only protects customers if the Company's projections are in

[11] Pa. PUC v. UGI Utilities, Inc. – Electric Division (UGI Electric), Docket No. R-2017-2640058 (Order entered October 2, 2018). See also, McCloskey v. Pa. PUC, 225 A.3d 192, 197 (Pa. Cmwlth. 2020) (UGI Electric).

fact significantly overstated, but also allows the Company to recover any excess plant costs through the DSIC. R.D. at 58; OCA R.B. at 17; OCA St. 2-S at 4-5.

Reply to Columbia Exception No. 6: Judge Dunderdale Did Not Err in Excluding an Overtime Offset to the Labor Complement Adjustment. (R.D. at 106; OCA M.B. at 33-34; OCA R.B. at 19-20; Columbia Exc. at 13)

Judge Dunderdale properly recommended that the Commission adjust the Company's employee complement proposal to reflect an employee complement of 782, the actual high recorded by the Company during 2020. R.D. at 106. The Company claims that the R.D. failed to include an overtime offset to the labor complement adjustment to account for overtime costs if the Company's full-time positions are not filled. Columbia Exc. at 13. The OCA submits that Judge Dunderdale did not err in reducing the FPFTY O&M expenses by $1,144,000, based on adjustments to new employee headcounts and benefits expense, because the Company has not properly supported the need for both its overstated employee complement, or overtime costs in replacement of such positions, given its actual hiring experience. OCA R.B. at 19.

Reply to Columbia Exception No. 8: Judge Dunderdale Properly Disallowed Certain Outside Service Expenses. (R.D. at 111; OCA M.B. at 39-41; OCA R.B. at 23-24; Columbia Exc. at 14)

Columbia argues that Judge Dunderdale's $1,757,000 adjustment to its Outside Services Expenses fails to consider the Company's budget process and disallows recovery of important safety programs. Columbia Exc. at 14. In the R.D., Judge Dunderdale properly concluded that the Company failed to provide documentary evidence sufficient to explain or support the Company's assertion that its Outside Services Expense would increase by $1,301,928 over the HTY. As the OCA stated in it Reply Brief, the Company cannot prove the reasonableness of its Outside Services Expense without *any* documentation. OCA R.B. at 24. The Company did not meet its burden of proof with substantial evidence and Judge Dunderdale properly disallowed these expenses.

Reply to Columbia Exception No. 9: Judge Dunderdale Did Not Err in Rejecting the Company's Proposal to Accelerate its Cross Bore Identification Program. (R.D. at 113; OCA M.B. at 42-44; OCA R.B. at 25-26; Columbia Exc. at 16)

Columbia argues that Judge Dunderdale's R.D. improperly rejects Columbia's proposal to accelerate its cross bore identification program. Columbia Exc. at 16. Specifically, Columbia contends that rejecting its claimed increase would defy the FPFTY process by disallowing expense increases based on the pace of historic spending increases. Id. The OCA submits that Judge Dunderdale was correct to reject Columbia's FPFTY Cross Bore Identification Program claim of $1,400,000 because the increase is nearly double the spending amount for the program in 2019 and 2020 and the Company provided no evidence to justify the significant increase. R.D. at 113. The OCA submits that Judge Dunderdale properly rejected this expense as "[i]t 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." Id.

Reply to Columbia Exception No. 10: Judge Dunderdale Was Correct to Disallow the Cost to Add Two New Gas Qualification Training Specialists. (R.D. at 114; OCA M.B. at 44; OCA R.B. at 26; Columbia Exc. at 17)

Columbia argues that the R.D. should not have disallowed the cost of adding two new Gas Qualification Training Specialists. Columbia Exc. at 17. Columbia further contends that it needs the two new employees to train a 21st century workforce and the cost should not be disallowed simply because the Company has not hired for the two open positions in 2020. Id. As demonstrated by OCA witness David Effron, the cost should be disallowed because the Company has not provided evidence to show *any* movement towards hiring for these positions. OCA R.B. at 26; OCA St. 2-S at 11. Judge Dunderdale was correct to disallow the cost for the two new Gas Qualification Specialists as "[i]t 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." R.D. at 114.

Reply to Columbia Exception No. 11: Judge Dunderdale's R.D. Did Not Improperly Reject the Company's Proposal to Hire Additional Employees to Accelerate Updating of Service Line Records. (R.D. at 115; OCA M.B. at 44-45; OCA R.B. at 26-27; Columbia Exc. at 18)

Columbia contends that the R.D. improperly rejects the Company's proposal to spend $491,000 to hire seven new employees to replace temporary employees who update its service line records. Columbia Exc. at 18. Columbia also argues that this rejection is "fundamentally unfair" because the R.D. also recommends that Columbia update its service records and maps as soon as possible. Id. The OCA submits that Judge Dunderdale properly denied this expense as, similar to the Gas Qualification Specialists, the Company has not demonstrated through its 2020 hiring experience that these positions will be filled. R.D. at 115; OCA R.B. at 26-27.

Reply to Columbia Exception No. 12: The R.D. Did Not Err in Denying Additional Recovery for Incremental Replacement of Customer-Owned Field Assembled Risers. (R.D. at 116; OCA M.B. at 45-46; OCA R.B. at 27-28; Columbia Exc. at 19)

Columbia disagrees with Judge Dunderdale's recommendation to deny the Company additional recovery for the $1,700,000, added to its budget, for replacement of 2,712 customer-owned field assembled risers. Columbia Exc. at 19. Judge Dunderdale properly denied the additional recovery because the Company replaced 1,279 customer-owned field assembled risers in the HTY using some amount for that expense implicitly included in the O&M expenses for the FPFTY and did not provide any explanation or support for the requested increase except the Company's initial explanation that the FPFTY expense is not incremental to the HTY expense, but rather to the FPFTY budget. R.D. at 115. Columbia argues that, even if the FPFTY budget is assumed to reflect the expense of the 1,279 customer-owned risers replaced in the HTY, the R.D. should have allowed $900,000 for the recovery of 1,433 additional risers to be replaced in the

FPFTY over the HTY level. Columbia Exc. at 19. However, Judge Dunderdale recognized that the Company has still failed to establish with evidence 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. R.D. at 115; OCA R.B. at 28. The OCA submits that the Company's requested expense for customer-owned field assembled risers was properly rejected in the R.D.

Reply to Columbia Exception No. 13: The Disallowance of FPFTY Compensation Adjustments is Proper. (R.D. at 116; OCA M.B. at 46-47; OCA R.B. at 28; Columbia Exc. at 20)

Judge Dunderdale properly concluded that the Company's FPFTY proposed compensation adjustments is speculative and should be eliminated from *pro forma* FPFTY operation and maintenance expense. R.D. at 116. Columbia argues that Judge Dunderdale's reliance on the Pa. Power & Light Co. case is misplaced and does not support rejection of the Company's FPFTY Compensation adjustment because its compensation adjustments are not speculative contingencies of future costs as the Company has calculated the amounts of compensation required to adjust pay to market levels. The OCA submits that these costs were properly disallowed as speculative and the Company did not present evidence showing it is in the process of implementing the compensation adjustments or that such implementation is imminent. OCA R.B. at 28; OCA St. 2-S at 16.

Reply to Columbia Exception No. 14: The Reduction to Depreciation Expense in the R.D. is Proper. (R.D. at 117; OCA M.B. at 47; OCA R.B. at 29; Columbia Exc. at 21)

Judge Dunderdale properly reduced the Company's depreciation expense calculation based upon the proper FPFTY plant-in-service adjustment. R.D. at 117. Columbia argues that the depreciation expense adjustment should be rejected for the same reasons that the decreased plant-in-service projection should be rejected. Columbia Exc. at 21. The OCA submits that Judge

Dunderdale's adjustment to the Company's proposed plant-in-service is proper and her corresponding adjustment to the depreciation expense is proper as well. OCA R.B. at 29.

Reply to Columbia Exception No. 15: The Recommended Payroll Tax Adjustment in the R.D. is Proper. (R.D. at 121; OCA M.B. at 47; OCA R.B. at 29; Columbia Exc. at 21)

Columbia argues that the reduction of $151,119 to Columbia's FPFTY taxes other than income taxes associated with the recommended disallowances for the payroll annualization adjustment that is the subject of Columbia Exception No. 5 ($40,119) and the employee complement adjustment that is the subject of Exception No. 6 ($111,000) should be rejected for the reasons explained in Columbia Exception Nos. 4 and 5. Columbia Exc. at 21. The OCA submits that Judge Dunderdale properly reduced this adjustment to reflect her proper adjustments to payroll annualization and employee complement and, therefore, the payroll annualization adjustment should be accepted. R.D. at 117.

Reply to Columbia Exception No. 16: Judge Dunderdale Was Correct In Recommending Adoption Of The OCA Capital Structure, Based Upon The Record Evidence. (R.D. at 180-181; Columbia Exc. at 22-24; OCA M.B. at 48-61; OCA R.B. at 30-37)

Columbia excepts to Judge Dunderdale's recommended denial of Columbia's projected end of the FPFTY capital structure of 54.19% common equity, 42.22% long-term debt, and 3.59% short-term debt. Columbia Exc. at 22-24. Columbia's Exception states that its projected end of the FPFTY capital structure is its actual capital structure and relates to the Company's planned capital spending. Id. at 22-23. Accordingly, Columbia states that the Commission is bound by precedent to approve the Company's projected end of FPFTY capital structure, so long as within the range of capital ratios employed by its barometer group companies. Id.

The OCA opposed adoption of Columbia's projected capital structure with a 54.19% equity ratio as not supported on the record. The Company prepared its end of the FPFTY capital structure forecast in 2019, before the Covid-19 pandemic. OCA witness O'Donnell concluded that

information provided by the Company in its rate filing, discovery, and rebuttal did not support that the Company's projected capital structure will be realized. OCA M.B. at 55-61; OCA R.B. at 30-37. Similarly, OCA witness Effron concluded that the Company did not support its claim that planned capital spending and plant additions in the FPFTY would be unaffected by the Covid-19 pandemic.[12] OCA R.B. at 33-34. Adoption of the Company's projected high equity ratio would be unfair to consumers since dollars for equity return require more revenue than an equivalent amount of debt. The OCA recommended that the Commission adopt a capital structure of 50% debt and 50% equity to set just and reasonable rates in this proceeding, under a "business as usual" approach. OCA M.B. at 48-52, 55-61; OCA R.B. at 30-37.

The Commission should deny the Company's Exception which leaps over the question of burden of proof. Judge Dunderdale properly determined that "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." R.D. at 181. Judge Dunderdale correctly recommended adoption of the OCA proposed capital structure of 50% debt and 50% equity to set just and reasonable rates, if the Commission applies a more traditional ratemaking review. R.D. at 181. Judge Dunderdale considered and balanced both the needs of the Company and the interests of Columbia Gas' consumers who will be paying any increase in rates during a time when residential and business customers face economic challenges resulting from the Covid-19 pandemic crisis. R.D. at 181. Columbia's exception should be denied.

Reply to Columbia Exception No. 17: The Company's Revised Cost Of Equity Request Is Still Overstated And Inconsistent With The R.D.'s Alternative Recommendation. (R.D. at 1, 181-185; Columbia Exc. at 24-28; OCA M.B. at 48-95; OCA R.B. at 30-45)

[12] In the R.D., Judge Dunderdale recommended adoption of the OCA adjustment to reduce the Company's FPFTY plant in service additions. R.D. at 50; see OCA Reply to Columbia Exception No. 2, above.

In its Exception, Columbia notes that the R.D. did not recommend a specific cost of equity, but identified some parameters. Columbia Exc. at 24; see R.D. at 1. As part of its Exception, Columbia modifies its litigation position and offers to accept a cost of equity lower than the Company's original 10.95% request. Columbia excepts to the R.D. to the extent that the R.D. would support approval of a cost of equity below the I&E recommended level of 9.86%.[13] Columbia Exc. at 24-28. Columbia agrees with the R.D. that the cost of equity may be based principally upon the DCF methodology, despite its litigation position. Id. at 24-25. Columbia states that it does not oppose a dividend yield of 3.34% and a growth rate of 6.42%, in recognition of "current circumstances."[14] Id. at 25-26. Columbia states it has withdrawn its management performance adder request, in recognition of the effects of the pandemic. Id. at 24.

In the R.D., Judge Dunderdale determined that Columbia's cost of equity claim is flawed in part due to Columbia's "application of the DCF including the forecasted growth rate and leverage adjustment" and that the Company's CAPM is also flawed. R.D. at 184-185. Columbia does not directly except to this conclusion by Judge Dunderdale. Yet, Columbia proceeds as if its DCF dividend yield and growth rate inputs merit consideration, in conflict with the R.D. See, Columbia Exc. at 25-26. Further, Columbia's Exception does not expressly exclude its leverage adjustment from continued consideration.

Judge Dunderdale's determination that the Company's cost of equity claim is based upon a flawed DCF analysis – including Columbia's 7.50% forecasted growth rate and leverage adjustment – is well supported and should be adopted. OCA M.B. at 62-63, 65-78; OCA R.B. at 38-40. The Commission should also adopt the R.D.'s recommended dismissal of Columbia's

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[13] I&E's cost of equity recommendation is DCF-based, with a 3.34% dividend yield and 6.52% growth rate. See, I&E St. 2 at 25.

[14] Mathematically, the sum of 3.34% and 6.42% is 9.76%.

CAPM analysis, due to the inclusion of a size adjustment, and other flaws. R.D. at 184-185; OCA M.B. at 72-76; OCA R.B. at 38-40. In light of the flawed underpinnings of the Company's cost of equity analyses, there is no evidentiary support for a cost of equity as proposed by the Company or I&E.[15]

As to the Company's criticism that the Commission should not consider the OCA's DCF growth range of 4.0% to 6.0%, the Company is incorrect. OCA witness O'Donnell properly considered a variety of publicly available growth rate data. OCA M.B. at 85-86. Mr. O'Donnell used the b x r as one of many measures, because the b x r is a good measure of the growth in dividends per share. Id. at 87-88. The OCA Main Brief describes Mr. O'Donnell's evaluation of all of the growth rate information compiled, in the context of current economic factors. Id. at 89-90. Mr. O'Donnell concluded in this context, it would be proper to place more weight on forecasted figures than historical figures in estimating the cost of equity for the OCA proxy group. Id. at 90.

The OCA recommended equity cost rate is supported by a proper DCF analysis, with a CAPM analysis as a check, and OCA witness O'Donnell's consideration of current economic conditions which include very low costs of borrowing and hardships faced by Columbia's consumers. OCA M.R. at 78-95; OCA R.B. at 41-45. The Company's Exception should be denied.

Reply to Columbia Exceptions Nos. 18 and 19, OSBA Exception No. 1 and PSU Exception No. 1: Judge Dunderdale Was Correct In Finding That The OCA's Peak And Average COSS Is A Sound And Reasonable Method For Allocating Distribution Mains Costs In This Proceeding. (R.D. at 249-395; Columbia Exc. at 28-31; OSBA Exc. at 2-5; PSU Exc. at 2-8; OCA M.B. at 131-155; OCA R.B. at 59-64)

[15] In OCA Exception 3, the OCA set forth the reasons why the Commission should determine that I&E's recommended cost of equity of 9.86% is too high to set just and reasonable rates in this proceeding. OCA Exc. at 13-23.

In this proceeding, Columbia advocated for the use of its Average study, which uses an equal weighting of its Customer Demand study and its Peak & Average study. Columbia M.B. at 130. PSU agreed with Columbia that the Average Study should be adopted here. PSU M.B. at 14. OSBA argued for a modified version of the Average Study, where instead of a 50/50 weighting of the Company's Customer Demand and Peak & Average studies, the OSBA recommended a 75% weighting be assigned to the Peak & Average study and a 25% weighting be assigned to the Customer Demand study. OSBA M.B. at 14-15. The OCA presented a Peak & Average study, which corrected the serious flaws found in the Company's Peak & Average study.[16] OCA St. 4 at 29-30.

In the R.D., Judge Dunderdale held that Columbia failed to carry its burden of proof that its Average Study should be used as a guide to allocate distribution mains costs. R.D. at 394. Judge Dunderdale specifically held that the "OCA's arguments are the most persuasive given the depth of evidence presented in this proceeding" and that the OCA's Peak & Average study "is the most appropriate, sound and reasonable method for cost allocation in this proceeding." Id.

Columbia, OSBA and PSU submitted Exceptions on this issue. In its Exceptions, Columbia argues in the main that the OCA's Peak & Average study should be rejected because it does not include a customer component for distribution mains and alleges that this shortcoming is "not supported by Commission precedent." Columbia Exc. at 29. In its Exceptions, OSBA argues that Commission precedent supports the use of the Average & Excess method[17] for NGDCs, with no customer component for mains. OSBA Exc. at 4-5. Notwithstanding these assertions, OSBA

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[16] OCA witness Mierzwa also presented a Proportional Responsibility COSS for use as a check on the reasonableness of the OCA's proposed Peak & Average study. OCA St. 4 at 30-31.

[17] The OCA disagrees with OSBA that the Average & Excess method, and not the Peak & Average method, is actually supported by Commission precedent for NGDCs. The OCA notes, however, that no Party in this case submitted an Average & Excess COSS.

goes on to argue that the Company's Average study, which includes a customer component, should be adopted for use here but modified to a 75% weighting of the Company's Peak& Average study combined with a 25% weighting of the Company's Customer Demand study. OSBA Exc. at 6. In its Exceptions, PSU primarily argues that selecting the OCA's Peak & Average study is inconsistent with the Commonwealth Court's decision in Lloyd, as the effect would be that the residential class is not being allocated its fair share of mains costs and this will lead to increasing cross-class subsidies from large commercial and industrial customers. PSU Exc. at 3-6.

Columbia, OSBA, and PSU all argue that the Company's Average study should be used, in some fashion, to arrive at the COSS that the Commission should approve here. The Average study, however, contains a 50% weighting from the Company's Customer Demand study, which allocates a portion of mains costs based on the number of customers, a method that has been previously rejected by the Commission. OCA St. 4 at 13-15.[18] Conversely, the Peak & Average method has been consistently accepted by the Commission for the allocation of distribution mains costs for NGDCs, as noted by Judge Dunderdale. R.D. at 394, fn. 656. The other Parties support for a COSS method that includes a customer component for mains is unsupported by Commission precedent and must be rejected.

As to PSU, its Lloyd argument is misplaced.[19] The Lloyd decision does not command that a particular COSS method be adopted, as PSU appears to argue. Rather, Lloyd teaches that once an appropriate COSS has been selected, here the OCA's Peak & Average study, the COSS should

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[18] See also, OCA M.B. at 139-150; I&E M.B. at 87.

[19] Lloyd v. Pa. P.U.C., 904 A.2d 1010, 1020 (Pa. Commw. Ct. 2004) (Lloyd). "Polestar" is a literary reference meaning "directing principle" or a "guide." The Commission has long regarded cost of service studies as more of an art form and a guide rather than as a source of actual data. Application of Metropolitan Edison Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code, 1998 Pa. PUC LEXIS 160, *159 (1998); Pa. P.U.C. v. Pa. Power & Light, 55 P.U.R. 4th 185, 249 (Pa. PUC 1983); Pa. PUC v. Aqua Pa., Inc., Docket No. R-00072711, Order (July 2008).

be used as a guide for revenue allocation while still recognizing that other factors such as gradualism and avoidance of rate shock are to be considered.[20] Pa. PUC v. City of Dubois – Bureau of Water, Docket No. R-2016-2554150 (Order entered May 18, 2017). PSU's argument, at its core, is that a COSS must be adopted here that contains a customer component for mains costs. This argument, similar to those of Columbia and OSBA, find no support in Commission or Court precedent, and thus must be rejected.

Reply to Columbia Exception No. 20, OSBA Exception No. 1 and PSU Exception21 No. 1: Judge Dunderdale Was Correct In Finding That The OCA's Peak And Average COSS Should Serve As A Useful Guide To Revenue Allocation In This Proceeding. (R.D. at 249-396; Columbia Exc. at 32-38; OSBA Exc. at 2-6; PSU Exc. at 2-8; OCA M.B. at 155-159; OCA R.B. at 64-66)

In its Exception, PSU argues for the adoption of the revenue allocation proposed by Columbia based on its Average study.[22] PSU Exc. at 2-8. OSBA argues that its 75/25 weighting should be used for revenue allocation. OSBA Exc. at 6. Alternatively, OSBA argues that Columbia's 50/50 weighting based on its Average study is also acceptable. Id. Columbia argues that a revenue allocation based on the OCA's Peak & Average study would be inconsistent with Lloyd, and inconsistent with revenue allocations achieved through *settlements* of prior Columbia rate cases. Columbia Exc. at 32-33. Columbia also submits a completely new proposal for a phased-in approach to its newly-revised $76.8 million revenue increase. Columbia Exc. at 34-38.

In the R.D., Judge Dunderdale held that "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

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[20] Pa. PUC v. City of Dubois – Bureau of Water, Docket No. R-2016-2554150 (Order entered May 18, 2017).

[21] The OCA notes that OSBA and PSU each combined their respective singular Exceptions to cover both Cost of Service and Revenue Allocation.

[22] PSU's and OSBA's revenue allocation arguments are substantially aligned with Columbia's revenue allocation based on its flawed Average study and thus will not be addressed in detail here. The OCA notes, however, that OSBA argued Columbia's revenue allocation proposal has serious flaws. OSBA M.B. at 17-19.

likewise unreasonable and not a clear reflection of the costs to Columbia Gas for providing service to the various customer classes." R.D. at 395. Accordingly, Judge Dunderdale held that the OCA's revenue allocation proposal should be accepted. R.D. at 396. The OCA submits that Judge Dunderdale's thorough review of the evidence and well-reasoned decision here should be accepted.

Columbia's Lloyd argument is without merit. Columbia attempts to show that Judge Dunderdale's recommended revenue allocation is inconsistent with Lloyd solely based on a comparison of the results with its own proposed revenue allocation. Columbia Exc. at 33. Columbia's revenue allocation is based on its Average study, which includes a customer component for mains costs. As such, Columbia's proposal is inconsistent with Commission precedent and fails to provide support for its misplaced Lloyd argument. Further, Columbia's use of past *settlements* as a basis to compare the results of this fully-litigated proceeding are improper and must be rejected.[23]

In a similar vein, Columbia's use of its Exceptions to introduce a brand new proposal in this matter, a phase-in approach, must be rejected. For one, introducing this proposal at the Exceptions' phase, with only 8 days to respond, no opportunity to investigate, analyze, conduct discovery or otherwise vet this proposal denies the OCA and all Parties adequate notice and a meaningful opportunity to respond.

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[23] As the Commission is well aware, settlements are the product of compromise by all parties and, as such, do not necessarily represent the litigation position of the parties. Accordingly, settlements have no precedential value, a fact which is routinely agreed to by settling parties. For example, this excerpt from Columbia's Joint Petition for Settlement of its 2018 base rate case:

> 73. This Settlement and its terms and conditions may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

Pa. PUC v. Columbia Gas, Joint Petition for Partial Settlement, Dock. No. R-2018-2647577 (submitted Aug. 31, 2018). Columbia's improper use of settled proceedings must be *strongly* rejected by the Commission.

Further, Columbia's attempts to legitimize its proposal with the UGI and PGW matters is completely without merit. Those cases involved broad-ranging provisions which included robust COVID-19 relief plans, low-income customer relief, stay-out provisions and a host of other consumer benefits. Moreover, those cases were the result of extensive settlement negotiations and compromise on all sides. Columbia's 11th hour proposal here shares none of these attributes. The OCA submits that the Exceptions of PSU, OSBA and Columbia on revenue allocation be denied and Judge Dunderdale's recommended revenue allocation be accepted.

Reply to Columbia Exception No. 22: Judge Dunderdale Was Correct In Finding That Columbia's Collections Policy May Not Comply With the Final CAP Policy Statement. (R.D. at 237-238; Columbia Exc. at 39-40; OCA M.B. at 112-116; OCA R.B. at 51-54)

In the R.D., Judge Dunderdale correctly recommended that Columbia should "direct greater attention to ensuring its CAP customers pay the affordable bills that Columbia Gas delivers to them, and that 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." R.D. at 238. The ALJ found that both CAP customers and non-CAP customers could benefit from improved collections policies. R.D. at 237. Non-CAP customers 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. R.D. at 237. CAP customers benefit because through quick pursuit of unpaid CAP balances, the utility can seek to terminate service to CAP customers when the balance is low, which will make "repayment – and ultimately, reconnection of service - easier for the CAP customer." R.D. at 237.

In its Exception, Columbia argued that the Company's policies are consistent with the Final CAP Policy Statement and that the Company pursues collections when there are two missed CAP

payments. Col. Exc. at 39-40.[24] Columbia's Exception, however, ignores the collections problems identified by OCA witness Colton. See, OCA M.B. at 112-116; OCA R.B. at 51-54. The OCA submits that Mr. Colton's conclusions are rooted in the fact Columbia could not provide a satisfactory explanation for why each month there is a significant gap between the number of CAP bills issued and the number of full CAP payments received. See, OCA M.B. at 112-116; OCA R.B. at 51-54; OCA St. 5 at 7, Sch. RDC-1; OCA St. 5-S at 14-15. OCA witness Colton performed a detailed analysis of Columbia's collections data. See, OCA St. 5 at 7, Sch. RDC-1; OCA St. 5-S at 14-15. The data showed that from October 2018 through December 2019, while Columbia has, on average, issued roughly 22,800 CAP bills each month, it has received, on average, fewer than 12,723 on-time payments. Id.; R.D. at 237. More than 10,000 customers receiving a CAP bill each month, in other words, do not make an on-time payment. Id.; R.D. at 237. As the ALJ found, Columbia was unable to adequately explain this significant gap in the number of bills rendered and the number of bills collected, and the Company needs to address this problem. R.D. at 237.

The OCA submits that Columbia's Exception should be denied and Judge Dunderdale's recommendation should be adopted.

Reply to CAUSE-PA Exception No. 1: Judge Dunderdale Was Correct In Not Approving CAUSE-PA's Proposal To Change Columbia's CAP Energy Burdens In This Proceeding. (R.D. at 238-240; CAUSE-PA Exc. at 4-8; OCA M.B. at 119-122; OCA R.B. at 54-56)

In its Exceptions, CAUSE-PA argues that Judge Dunderdale erred as a matter of law by failing to require that Columbia adhere to its settlement agreement in the 2018 base rate proceeding to lower the maximum energy burdens. CAUSE-PA Exc. at 4-8. Judge Dunderdale did not

[24] 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).

approve CAUSE-PA's proposed changes to the energy burdens as a part of this base rate proceeding, but Judge Dunderdale instead recommended that Columbia voluntarily address the concern with its energy burdens prior to Columbia's next 2024 Universal Service and Energy Conservation Plan (USECP) and provide proof in the next USECP regarding why the energy burdens should not be reduced. R.D. at 239. The OCA submits that the ALJ correctly deferred the issues identified by CAUSE-PA to be resolved as a part of the Company's USECP as the OCA Reconsideration Order[25] provided that changes to the energy burdens should be considered as a part of the utility-specific Universal Service and Energy Conservation Plan. OCA Reconsideration Order at 10-11.

The OCA submits that CAUSE-PA's Exception to address the energy burdens as a part of this base rate proceeding should be denied.

[25] 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code §§ 69.261-69.267, Docket No. M-2010-3012599, Order at 10-11 (Feb. 6, 2020) (OCA Reconsideration Order) (Feb. 6, 2020).

III. CONCLUSION

For the reasons set forth above and in its Exceptions, Main Brief, and Reply Brief, the Office of Consumer Advocate respectfully requests that the Public Utility Commission deny the Exceptions of the other Parties.

Respectfully submitted,

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