



COMMONWEALTH OF PENNSYLVANIA

December 30, 2020

**E-FILED**

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. 2020  
Base Rate Filing / Docket No. R-2020-3018835**

Dear Secretary Chiavetta:

Enclosed please find the Reply Exceptions on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Steven C. Gray

Steven C. Gray  
Senior Supervising  
Assistant Small Business Advocate  
Attorney ID No. 77538

*Enclosures*

cc: Robert D. Knecht  
Commission’s Office of Special Assistants  
Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

---

**REPLY EXCEPTIONS  
ON BEHALF OF THE  
OFFICE OF SMALL BUSINESS ADVOCATE**

---

**Steven C. Gray  
Senior Supervising  
Assistant Small Business Advocate  
Attorney ID No. 77538**

**For: John R. Evans  
Small Business Advocate**

**Commonwealth of Pennsylvania  
Office of Small Business Advocate  
Forum Place  
555 Walnut Street, 1<sup>st</sup> Floor  
Harrisburg, PA 17101**

**Date: December 30, 2020**

## **I. Introduction**

On April 24, 2020, Columbia Gas of Pennsylvania, Inc. (“Columbia” or the “Company”) filed Supplement No. 307 to Tariff Gas Pa. P.U.C. No. 9 (“Supplement 307”), with an effective date of January 23, 2021. Columbia proposed to increase overall rate revenues by approximately \$100.4 million per year, an increase of 17.54% over present revenues and 23.99% of present base rate revenues.

On May 4, 2020, the Office of Small Business Advocate (“OSBA”) filed a Complaint against Supplement 307.

On June 3, 2020, a prehearing conference was held before Administrative Law Judge (“ALJ”) Katrina L. Dunderdale.

On June 15, 2020, ALJ Dunderdale issued her Amended Prehearing Order.

On July 28, 2020, the OSBA served the Direct Testimony of Robert D. Knecht, in both Public and Highly Confidential versions.

On August 26, 2020, the OSBA served the Rebuttal Testimony of Mr. Knecht.

On September 16, 2020, the OSBA served the Surrebuttal Testimony of Mr. Knecht, in both Public and Highly Confidential versions.

On September 24, 2020, the ALJ Dunderdale conducted an evidentiary hearing.

On September 25, 2020, ALJ Dunderdale issued her Post-Hearing Order, admitting all testimony (including testimony of Mr. Knecht) into the record.

On October 16, 2020, the OSBA filed its Main Brief.

On October 30, 2020, the OSBA filed its Reply Brief.

On December 4, 2020, the ALJ issued her Recommended Decision (“RD”).

On December 22, 2020, the OSBA filed Exceptions to the RD.

The OSBA submits the following Reply Exceptions in response to the Exceptions filed by the Company, the Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”).<sup>1</sup>

## II. Reply Exceptions

### **Reply to Columbia Exception No. 1 and I&E Exception No. 1: The ALJ properly recommended awarding no revenue increase in this proceeding. (Columbia Exceptions, at 3-7; I&E Exceptions at 6-11)**

The OSBA is fully cognizant of the difficulties that this case presents to the Commission. There are non-unanimous settlement agreements among certain parties. Both the Office of Administrative Law Judge and the Commission know the complications created by non-unanimous settlements. Furthermore, without even a unanimous *partial* settlement on certain issues, this case offers up to the Commission every single issue for litigation. A cursory examination of Columbia’s 22 Exceptions (with sub-parts) amply demonstrates this point.

Nevertheless, there is a one simple, over-arching decision that the Commission must reach before proceeding any further with its deliberations: should this case be treated as a “traditional ratemaking” case, or does the COVID-19 pandemic trump “traditional ratemaking” as recommended by ALJ Dunderdale?

Columbia views this case as simply a traditional ratemaking case:

---

<sup>1</sup> 52 Pa. Code § 5.533 governs the filing of exceptions. Columbia, I&E, the OCA, and CAUSE-PA violated Section 5.533(c) (“the exceptions must be concise” and “A separate brief in support of or in reply to exceptions may not be filed with the Secretary”) by adding to their numbered exceptions an argumentative “Introduction” that amounted to a separate brief. Each Party also violated Section 5.533(b) (“Each exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken...”) by embellishing their December 22<sup>nd</sup> filings with these contentious preambles. The OSBA will not respond to any of these so-called “Introductions,” and requests that the Commission simply disregard the argumentative “Introductions” of Columbia, I&E, the OCA, and CAUSE-PA.

Long established public utility law provides that a utility must be permitted to recover its reasonable expenses and be provided an opportunity to earn a fair return.

Columbia Exceptions, at 4 (citations omitted).

I&E admits that it is constrained to litigate all such cases as this as a traditional ratemaking case:

However, until directed otherwise by the Commission, I&E has continued to employ its traditional ratemaking analysis in rate cases, which resulted in its recommended \$75.9 million increase in this proceeding.

I&E Exceptions, at 6.

The OSBA is certain that the Commissioners and their respective Staffs have all the latest data and news on the COVID-19 pandemic and how the pandemic is affecting the Commonwealth. For the OSBA, our concern is essentially two-fold: how many Commonwealth small businesses will be critically (and/or permanently) affected by the pandemic; and how long will this pandemic actually last. This second issue is particularly difficult to address because, at the time of this writing, no one (including Dr. Fauci himself) knows.

Consequently, the OSBA supports ALJ's Dunderdale's recommendation to deny Columbia any revenue increase at this time. There is, however, one more point to be made. Columbia has had eight (8) rate cases over the last twelve years, the most recent at Docket No. R-2018-2647577. OSBA Statement No. 1, at 3. The OSBA respectfully submits that Columbia can forego yet another rate increase while the COVID-19 pandemic plays out.

The fact that Columbia's criminally convicted parent company needs cash is also not a sufficient reason.

**Reply to OCA Exception No. 1 and CAUSE-PA Exception No. 2: The ALJ properly recommended against allocating universal service costs to all customer classes. (OCA Exceptions, at 3-11; CAUSE-PA Exceptions at 8-12)**

In their respective Exceptions, both OCA and CAUSE-PA argue that Columbia's small commercial and industrial ("Small C&I") customers should be charged an additional cost during the COVID-19 pandemic – the cost of the residential-only universal service programs. As the OSBA recommended in its Main Brief, the OSBA respectfully requests that the Commission defer consideration of the allocation of universal service costs until such time when Columbia's small business and industrial customers have financially recovered from the COVID-19 Pandemic. The OCA and CAUSE-PA utterly reject that reasonable request.

In so doing, the OCA ignores the testimony of its own witness regarding the impact of the pandemic on small businesses. OCA witness Mr. Scott Rubin testified, as follows:

The outlook for small business is slightly worse than it was when I prepared my initial testimony. On pages 16-17 of OCA Statement 1, I summarized the results of the Census Bureau's Small Business Pulse Survey for Pennsylvania. At the end of June, that survey reported that 41% of Pennsylvania's small businesses expected it to take 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, but it started a new survey with similar questions on August 9. In the week ending September 5, 44.7% of Pennsylvania's small businesses said they would take at least 6 18 months to recover, with another 10.1% saying they would never fully recover from the pandemic.

OCA Main Brief, at 17-18 (emphasis in original).

Mr. Rubin cited to data through September 5, 2020. Additional data, through December 20, 2020, is now available. The updated data<sup>2</sup> for "expectations" shows the following:

- Small Businesses returning to normal operation in 2-3 months – 3.4%

---

<sup>2</sup> <https://portal.census.gov/pulse/data/>

- Small Business returning to normal operation in 4-6 months – 19.7%
- Small Businesses returning to normal operation in more than 6 months – 46.5%
- Small Business that will never return to normal operation – 5.5%
- Small Businesses that have permanently closed – 2.2%

As Mr. Rubin’s original cited data, and as the December 20<sup>th</sup> updated data continues to demonstrate, small businesses in the Commonwealth have been hit hard by the COVID-19 Pandemic. In addition, the Johns Hopkins Coronavirus Resource Center<sup>3</sup> documents that, at the time of this writing, the highest number of new COVID-19 cases in Pennsylvania was 13,295 on December 11<sup>th</sup> – a mere 19 days ago.

As is obvious to everyone except the OCA and CAUSE-PA, Columbia’s small business ratepayers have been devastated by the pandemic and adding this cost to their bills would be unjust and unreasonable at this time.

52 Pa. Code Sections 69.261 – 69.267 address the recently updated Policy Statement on Customer Assistance Programs (“CAPs”). With respect to the Commission, it is important to observe that Commission policy statements do not have the binding force of a statute or a regulation – but do provide guidance on issues under the Commission’s jurisdiction.

The OCA and CAUSE-PA cite to the following policy language in support of their arguments that CAP costs should be allocated to all Columbia customers:

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.

52 Pa. Code Section 69.266(b).

---

<sup>3</sup> <https://coronavirus.jhu.edu/region/us/pennsylvania>

OSBA witness Robert D. Knecht explained the Commission's reasoning for this possible change in CAP cost recovery, as follows:

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

OSBA Statement No. 1-R, at 3 (citations omitted). Specifically, the Commission stated, as follows:

Given the significant past increase in EDC universal service spending – and the anticipated increases in both EDC and NGDC universal spending through 2021 – the Commission is concerned that recovering CAP costs (as well as other universal service costs) from only residential ratepayers will continue to make electric and/or natural gas bills increasingly unaffordable for non-CAP customers, especially those with incomes between 151-200% of the FPIG [Federal Poverty Income Guidelines].

*Final Policy Statement and Order*, Docket M-2019-3012599 (Order entered November 5, 2019), at 93.

Furthermore, in its Policy Statement, the Commission instructs the following regarding cost recovery:

In evaluating utility CAPs for ratemaking purposes, the Commission will consider both revenue and expense impacts.

52 Pa. Code § 69.266(a).

In order to consider the “revenue and expense impacts” Mr. Knecht addressed the original Company proposal for funding its CAP program, as follows:

In this proceeding, 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. For the FPPTY, the Company' forecasts that it will incur



\$26.73 million in universal service costs, or about \$5.56 per month for a typical residential customer.

OSBA Statement No. 1-R, at 3.

Mr. Knecht then performed the follow calculation:

The current rates USP charge for residential customers is approximately 68 cents per Dth, or about \$4.84 per non-CAP customer per month.

\* \* \*

Under Mr. Colton's proposal, I estimate that the test year universal service charge for residential customers would average \$4.22 per month (\$4.14 with Mr. Mierzwa's revenue allocation), a savings of about 60 to 70 cents per month relative to the current rates.

OSBA Statement No. 1-R, at 7.

Thus, compared the Company's *original* filed USP rates, Mr. Colton's proposal would save the typical residential customers about \$1.30 a month.<sup>4</sup> An additional \$1.30 per month does not impact CAP costs to such an extent that those costs must be allocated to the Company's non-residential customer classes. Therefore, under the Commission's "revenue and expense impacts" test, the OCA and CAUSE-PA proposal fails.

Even more devastating to the OCA and CAUSE-PA arguments is that neither party supporting the proposed change in cost allocation has provided an evaluation of the combined impacts of the rate increase *and* the change in universal service cost recovery on business customers. However, Mr. Knecht did so. Using the approach proposed by the OCA, which is extremely generous to the largest customers, Mr. Knecht demonstrated that the combined rate impact on small to medium businesses of the OCA revenue allocation (which was approved by

---

<sup>4</sup> The "about \$1.30" is calculated by comparing the "\$5.56 per month for a typical residential customer" as calculated by Mr. Knecht and Mr. Knecht's calculation for a \$4.22 charge under OCA witness Mr. Colton's proposal.

the ALJ) *and* the OCA CAP cost proposal would be 37 percent (smaller businesses) and 43 percent (larger businesses). Apparently, the OCA and CAUSE-PA have a wholly different definition of what constitutes “just and reasonable” rates, at least when it comes to impacts on small business customers.

The OCA and CAUSE-PA underpin their argument by claiming that universal service costs are a “public good.” While what is a “public good” is in the eye of the beholder, Mr. Knecht provided a more rational analysis of the alternative reasoning for CAP cost recovery:

There are two general philosophies: the insurance model, and the public policy tax model.

The philosophy of recovering all costs from the residential class is based on the argument that *only residential customers are eligible for the benefits*. A universal service program is therefore a form of insurance, in which residential gas customers are paying premiums to the utility, so that they will be eligible for cash benefits in the event they have an unfortunate turn in their economic circumstances. In this model, it is fair and reasonable that only gas customers should get the insurance benefits from the program, because it is only gas customers who pay for the program. It is also reasonable that these programs can be deemed to be an integral part of utility service, because the insurance relates only to utility service.

OSBA Statement No. 1-R, 5-6 (emphasis added). Mr. Knecht continued:

The alternative model is the government policy tax model.

This model, as described in some detail by both Mr. Colton and Mr. Miller, is based on the argument that there are societal benefits associated with assisting low-income residents. Under this paradigm, all customers should pay because all customers obtain the social benefits. In effect, this form of low-income programs looks like many other government programs which provide both individual and societal benefits, and the costs of which are borne by the taxpayers.

OSBA Statement No. 1-R, at 6 (footnote omitted) (formatting added).

Rather than debating what is (and is not) a “public good,” Mr. Knecht recommended that the ALJ and Commission continue to adopt the insurance model:

My recommendation is that the Commission retain the insurance model, for reasons of cost causation and equity. In this model, customers pay for the benefits for which they are eligible. Residential customers benefit from the insurance, and residential customers pay for that insurance. Non-residential customers are not eligible for that insurance, and they therefore should not pay for the insurance.

OSBA Statement No. 1-R, at 6 (emphasis added).

The OCA and CAUSE-PA argument is that the proper issue is whether utility universal service programs should be funded by the ratepayer or the taxpayer.<sup>5</sup> This argument misses the point. Currently, residential customers are eligible for an “insurance policy” which allows them to get discounted rates if their economic circumstances turn for the worse. It is true that the Commission has decided to expand universal service programs, but the Commission’s decision to change the terms of that “insurance policy” to provide greater coverage at greater cost does not change the underlying philosophy that residential customers should get what they pay for.

In contrast, when the OCA and CAUSE-PA demand that small businesses, government offices, municipalities, hospitals, educational institutions, and larger businesses contribute to the residential-only “insurance policy,” the Commission is transitioning from being the regulator to being a taxation authority.

The OSBA respectfully submits that having Columbia’s residential customers pay for a benefit which only they are eligible for is just, reasonable, and non-discriminatory. In this proceeding, even under the Company’s original CAP proposal, Columbia’s typical non-CAP residential customer would be paying only about \$1.30 more a month in CAP costs. That is a *de*

---

<sup>5</sup> OCA Main Brief, at 182-183.

*minimis* amount, and does not support the changes to CAP cost revenue allocation as proposed by the OCA and CAUSE-PA.

The Commission should uphold the ALJ's recommendation on this issue.

### **III. Conclusion**

For the reasons set forth herein, the OSBA respectfully requests that the Commission deny Columbia Exception No. 1, I&E Exception No. 1, OCA Exception No. 1, and CAUSE-PA Exception No. 2.

The OSBA respectfully requests that the Commission affirm the ALJ's Recommended Decision on all issues.

Respectfully Submitted,

/s/ Steven C. Gray

---

Steven C. Gray  
Senior Supervising  
Assistant Small Business Advocate  
Attorney ID No. 77538

Commonwealth of Pennsylvania  
Office of Small Business Advocate  
Forum Place  
555 Walnut Street, 1<sup>st</sup> Floor  
Harrisburg, PA 17101  
(717) 783-2525  
(717) 783-2831 (fax)

Dated: December 30, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing have been served via email (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Katrina L. Dunderdale  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Piatt Place  
301 5<sup>th</sup> Avenue, Suite 220  
Pittsburgh, PA 15222  
[kdunderdal@pa.gov](mailto:kdunderdal@pa.gov)

Erika McLain, Esquire  
Bureau of Investigation & Enforcement  
400 North Street  
Commonwealth Keystone Building  
Harrisburg, PA 17120  
[ermclain@pa.gov](mailto:ermclain@pa.gov)

Barrett Sheridan, Esq.  
Darryl A. Lawrence, Esq.  
Laura Antinucci, Esq.  
Office of Consumer  
Advocate  
555 Walnut Street  
5<sup>th</sup> Floor Forum Place  
Harrisburg, PA 17101-1923  
[OCACGPA2020@paoca.org](mailto:OCACGPA2020@paoca.org)

Michael W. Hassell, Esq.  
Lindsay A. Berkstresser, Esq.  
Post & Schell, PC  
17 North Second Street  
12<sup>th</sup> Floor  
Harrisburg, PA 17101  
[mhassell@postschell.com](mailto:mhassell@postschell.com)  
[lberkstresser@postschell.com](mailto:lberkstresser@postschell.com)

Amy E. Hirakis, Esq.  
NiSource Corporate Services Company  
800 North 3<sup>rd</sup> Street, Suite 204  
Harrisburg, PA 17102  
[ahirakis@nisource.com](mailto:ahirakis@nisource.com)

Meagan B. Moore, Esquire  
NiSource Corporate Services Company  
121 Champion Way, Suite 100  
Canonsburg, PA 15317  
[mbmoore@nisource.com](mailto:mbmoore@nisource.com)

Joseph L. Vullo, Esq.  
Burke, Vullo, Reilly, Roberts  
1460 Wyoming Ave.  
Forty Fort, PA 18704  
[jlvullo@aol.com](mailto:jlvullo@aol.com)

Elizabeth R. Marx, Esquire  
Ria M. Pereira, Esquire  
John W. Sweet, Esquire  
Pennsylvania Utility Law Project  
118 Locust Street P.O. Box 1166  
Harrisburg, PA 17101  
[pulp@palegalaid.com](mailto:pulp@palegalaid.com)

The Honorable Katrina L. Dunderdale  
c/o Hebron Presbyterian Church  
10460 Frankstown Road  
Pittsburgh, PA 15235  
**(via first-class mail only)**

Bruce Matteo  
118 New Galilee Road  
Darlington, PA 16115  
[brucematteo@comcast.net](mailto:brucematteo@comcast.net)

Dr. Richard Collins  
440 Monmouth Drive  
Cranberry Township, PA 16066-5756  
[Richardcollins@consolidated.net](mailto:Richardcollins@consolidated.net)

Thomas J. Sniscak  
Whitney E. Snyder  
Hawke McKeon & Sniscak, LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)  
[wesnyder@hmslegal.com](mailto:wesnnyder@hmslegal.com)

Charis Mincavage, Esquire  
Kenneth R. Stark, Esquire  
Mcnees Wallace & Nurick LLC  
100 Pine Street, P.O. Box 1166  
Harrisburg, PA 17108-1166  
[cmincavage@mcneeslaw.com](mailto:cmincavage@mcneeslaw.com)  
[kstark@mcneeslaw.com](mailto:kstark@mcneeslaw.com)

Ionut R. Ilie  
225 McBath Street  
State College, PA 16801  
[Ionut.john.ilie@gmail.com](mailto:Ionut.john.ilie@gmail.com)

/s/ Steven C. Gray

DATE: December 30, 2020

---

Steven C. Gray  
Senior Supervising  
Assistant Small Business Advocate  
Attorney ID No. 77538