

COMMONWEALTH OF PENNSYLVANIA



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May 9, 2022

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-2022-3031211

Columbia Gas of Pennsylvania, Inc.
Supplement No. 343 Proposed Tariff
Modifications for Inclusion of the Green Path
Rider
Docket No. R-2022-3032167

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Answer in Opposition to the Motion to Consolidate of Columbia Gas of Pennsylvania, Inc. in the above-referenced proceedings. The undersigned certifies that this filing contains no averments or denials of fact subject to verification and penalties under 52 Pa. Code Section 1.36.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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Certificate of Service

*328355

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2022-3031211
 :
 Columbia Gas of Pennsylvania, Inc. :
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 Columbia Gas of Pennsylvania, Inc. :
 Supplement No. 343 Proposed Tariff : Docket No. R-2022-3032167
 Modifications for Inclusion of the Green :
 Path Rider :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Answer in Opposition to the Motion to Consolidate of Columbia Gas of Pennsylvania, Inc., 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 9th day of May 2022.

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Dated: May 9, 2022
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No. R-2022-3032167
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	
Supplement No. 343 Proposed Tariff	:	
Modifications for Inclusion of the Green	:	
Path Rider	:	

**ANSWER OF THE
OFFICE OF CONSUMER ADVOCATE
TO THE MOTION TO CONSOLIDATE OF COLUMBIA GAS OF PENNSYLVANIA, INC.**

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Dated: May 9, 2022

I. INTRODUCTION

Columbia Gas of Pennsylvania, Inc. (Columbia) has two separate rate filings pending before the Commission. The first is Columbia's request to increase its base rates by \$82.2 million annually, supported by proposed Supplement No. 337 to Tariff Gas Pa. P.U.C. No. 9, testimony, replies to regulatory standard data requests, and other information (Columbia base rate filing). Columbia filed this general rate increase request on March 18, 2022, commencing the nine-month period governed by Section 1308(d) (Docket No. R-2022-3031211). Columbia made the second rate filing on April 26, 2022 with proposed Supplement No. 343, tariff changes to implement a "Green Path Rider" accompanied by testimony (Docket No. R-2022-3032167) (Green Path Rider).

Columbia Gas of Pennsylvania, Inc. (Columbia) has filed a Motion to Consolidate these two independent proposed rate filings, so that both rate filings may be litigated as part of Columbia's 2022 base rate proceeding. The Office of Consumer Advocate (OCA) opposes Columbia's proposal to expand the scope of its 2022 base rate proceeding to include the newly filed proposed Green Path Rider rate filing. Columbia's proposed consolidation would be fundamentally unfair to the public which has not received notice of the Green Path Rider rate filing. Grant of Columbia's Motion would impose an unreasonable and unnecessary burden on the OCA and others who timely filed formal complaints or interventions to oppose and participate in litigation of Columbia's 2022 base rate filing. Columbia's Motion provides neither sound legal justification for grant of its Motion nor does its assertion of convenience and administrative efficiency have any weight.

The OCA's Answer in Opposition is joined / supported by the Office of Small Business Advocate (OSBA), the Coalition for Affordable Utility Services and Energy Efficiency in

Pennsylvania (CAUSE-PA), and the National Resources Defense Council (NRDC). For the reasons explained below, Columbia's Motion should be denied.

II. ANSWER

A. Columbia's Two Rate Filings Should Be Subject to Separate Adjudication, to Assure That Due Process is Afforded Consistent With the Public Utility Code.

The two tariff supplements which Columbia proposes consolidate for adjudication are distinctly different as to substance, scope, public notice, and time of filing. At the outset, it is important to note that Columbia alone has controlled whether and when to make each tariff filing.

The first is Columbia's proposed Tariff Supplement No. 337 (Supplement No. 337), which relates to Columbia's request for an \$82.2 million increase in base rates and specific changes to its tariff language (base rate request). Columbia filed this Supplement and supporting documents on March 18, 2022. Columbia's rate filing is a "general rate increase" under Section 1308(d). 66 Pa. C.S. § 1308(d). As required by 52 Pa. Code § 53.45(b), Columbia has provided direct notice to its customers and public notice of its base rate request. Columbia's Supplement No. 377 and base rate request is the subject of multiple formal complaints and interventions.

The Commission suspended Columbia's base rate increase request by Order entered April 14, 2022 (Suspension Order). The Commission's Suspension Order defines the scope of issues open to adjudication in Columbia's 2022 base rate proceeding as limited to "the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Supplement No. 337 to Tariff Gas Pa. P.U.C. No. 9" and "consideration of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc.'s existing rates, rules, and regulations." Pa. P.U.C. v. Columbia Gas of Pennsylvania, Inc., Docket No. R-2022-3031211, Order at 3, ¶¶ 1, 4 (Apr. 14, 2022). Cognizant of the strict time limitation fixed by Section 1308(d) for resolution of a general rate increase filing, the Suspension Order directed assignment of

Columbia's 2022 base rate filing to the Office of Administrative Law Judge "for the prompt scheduling of hearings" in advance of issuance of a Recommended Decision. Id. at 3.

Columbia's second tariff filing is proposed Supplement No. 343 (Supplement No. 343), a single-issue rate filing with three pieces of testimony in support of Columbia's proposed Green Path Rider service and rates. Columbia made this voluntary tariff filing on April 26, 2022 – 39 days after Columbia commenced its 2022 base rate case and 12 days after the Commission fixed the scope of issues for litigation in Columbia's 2022 base rate case. Columbia also filed this proposed Green Path Rider rate filing just three days before the Prehearing Conference for Columbia's 2022 base rate case.

Columbia's proposed Supplement No. 343 and Green Path Rider is a permissive rate filing covered by Section 1308(a). 66 Pa. C.S. § 1308(a). The manner and timing of public notice for a proposed Section 1308(a) rate change is to be determined and directed by the Commission. Id.; 52 Pa. Code § 53.45(g). Columbia served Supplement No. 343 on the OCA, the Bureau of Investigation of Enforcement, the Office of Small Business Advocate, and some other parties to the Columbia 2022 base rate proceeding. However, Columbia has not shown any evidence of broader notice provided to the public to assure that individuals, industry participants, or public interest groups know that Columbia's proposed Green Path Rider has been filed and is pending before the Commission. Based on this disparity in the timing and amount of public notice between the Columbia 2022 base rate case and the much more recent Green Path Rider rate filing, consolidation of the two rate cases would be unreasonable and a denial of due process. It would be unfair to allow Columbia to provide broad notice of its general rate increase, have that notice published and proposed tariff suspended by the Commission, only to allow Columbia to add a

novel issue to the case after this notice occurs solely to suit its administrative and corporate purposes.

The Columbia 2022 base rate filing should not be consolidated with Columbia's newly filed Green Path Rider. Columbia's 2022 base rate proceeding should be litigated pursuant to the Commission's Suspension Order and the outcome of the April 29, 2022 Prehearing Conference. The Commission should separately review Columbia's Green Path Rider as a Section 1308(a) rate filing and direct Columbia to provide notice to the public. Broad public notice of the proposed Green Path Rider tariff is necessary to assure that all interested parties have an opportunity to learn about the rate filing and decide whether to file a formal complaint or intervene in any adjudication of the merits of the Columbia Green Path Rider.

B. The Commission Should Allow Interested Parties Sufficient Time to Investigate and Develop a Record on the Merits of Columbia's Proposed Green Path Rider.

Consolidation of the Columbia 2022 base rate case and Columbia Green Path Rider tariff is unwarranted. Columbia's Green Path Rider presents new and novel issues which require more time for discovery and development of the OCA and all other interested parties' positions on the merits. Concurrent with this Answer, the OCA has filed a complaint against Columbia's Green Path Rider tariff.

Importantly, at issue in the Green Path Rider filing is a threshold question as to whether it is appropriate for a Natural Gas Distribution Company, such as Columbia, to offer and sell either renewable natural gas attributes or carbon offsets under its retail tariff. Neither of these offerings, which the Company plans to procure through a third party, are regulated by the Public Utility Commission or authorized by the Public Utility Code. Furthermore, the Commission must assess the merits and proposed implementation of a five-year pilot, the need for effective consumer

education if approved, and the need for consumer protections to address the cross impacts of the offer of an optional extra charge for the Green Path service on residential consumers.

Pilot programs require care to structure and implement. Consumers should receive appropriate education regarding the purpose of the optional service. The Green Path Rider has the potential to significantly increase rates for products that are unfamiliar to Pennsylvania's ratepayers. Based on the scant details provided by Columbia, it is unclear whether rate payers will understand the intended purpose of the program or that they will not actually be purchasing gas that is any "greener" to be used in their homes or businesses. The OCA submits that it is likely not well understood by the general public what "renewable natural gas attributes" are, how they are generated, what their market value actually is, as well as a host of other relevant questions. While some ratepayers might understand the intended purpose of the program, it is also not clear at all what actual products will be included in the offering. Indeed, the Green Path Rider filing, including testimony, is noncommittal as to the actual products that will be acquired to support the intended purpose of offsetting or reducing a customer's carbon footprint.

Moreover, the Company's proposed means of addressing the notice deficiencies that stem from the lateness of its request to include the Green Path Rider in the base rate proceeding – *i.e.*, providing the non-company parties merely two additional weeks to prepare written direct testimony specific to Green Path Rider issues – is wholly inadequate to ameliorate these concerns. The Green Path rider implicates distinct legal, technical, and policy issues, potentially requiring the commentary of a significantly different range of witnesses than the participating parties otherwise would have had reason to retain in the base rate proceeding.

The Commission should not expedite the review of Columbia's proposed Green Path Rider tariff by consolidating the filing into the remaining litigation schedule of the pending base rate proceeding.

C. Grant of Columbia's Motion to Consolidate Would Be an Unsound Policy Decision.

The OCA also opposes Columbia's Motion to Consolidate because Columbia itself controls the scope and timing of its voluntary proposed changes in rates. Columbia chose when and what proposed new rider language to include as part of Columbia's 2022 base rate filing. For example, Columbia has proposed a new revenue adjustment rider as part of its 2022 base rate filing. The absence in the 2022 base rate filing of proposed tariff language and testimony in support of a Green Path Rider is wholly within Columbia's control. Granting Columbia's Motion to Consolidate would set bad policy for future proceedings by allowing utilities to add issues to rate cases that were not subject to public notice, after the tariff was suspended.

Columbia's Motion suggests that consolidation is appropriate because the Green Path Rider may relate to issues in the 2022 base rate case and/or parties to the 2022 base rate case may have an interest in reviewing the Green Path Rider. Columbia Motion at 3. If this were the case, then Columbia should have included it in its initial filing. It chose not to do so for its own reasons, but it should not be permitted to come in more than a month later with new and novel issues that are, at best, only tenuously tied to their role as a distribution company. The Commission should not accept Columbia's effort to inject into the 2022 base rate proceeding this new and novel Green Path Rider proposal. If it was appropriate to be part of the Columbia 2022 base rate proceeding, Columbia should have included it as part of the Tariff Supplement No. 337 base rate filing which Columbia made on March 18, 2022. The only party who would benefit from grant of the Motion

to Consolidate would be Columbia itself by limiting the public notice of the Green Path Rider filing and the time in which the new issues may be examined.

Grant of Columbia's Motion would unreasonably compel the OCA and other parties to investigate, conduct discovery, file testimony, and brief the merits of the Green Path Rider during the limited time allowed under Section 1308(d) for adjudication of Columbia's base rate proceeding. Further, as noted above, interested parties without notice of the Green Path Rider rate filing would not even know that they should have attended the April 29, 2022 Prehearing Conference for the 2022 base rate case to have a say in the fixing of the procedural schedule.

The Commission should deny Columbia's request to expand the scope of its 2022 base rate filing to include a new and separate tariff supplement which Columbia chose to file 39 days later. The Commission should not encourage public utilities to expect that the scope of issues and tariff changes proposed as part of a Section 1308(d) general rate increase can be expanded to include a later filed, voluntary Section 1308(a) change in rates. The OCA foresees much greater harm and waste of administrative resources arising from grant of Columbia's Motion, rather than the efficiencies alleged by Columbia.

III. CONCLUSION

The Office of Consumer Advocate respectfully requests that the Presiding Administrative Law Judges and the Commission deny Columbia's April 26, 2022 Motion to Consolidate the two Columbia rate filings at Docket No. R-2022-3031211 (2022 base rate case) and Docket No. R-2022-3032167 (Green Path Rider tariff).

Respectfully Submitted,

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