

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|--|---|---------------------------|
| Pennsylvania Public Utility Commission | : | |
| | : | Docket No. R-2018-2647577 |
| | : | |
| v. | : | |
| | : | |
| Columbia Gas of Pennsylvania, Inc. | : | |

REBUTTAL TESTIMONY OF MITCHELL MILLER

ON BEHALF OF

THE COALITION FOR AFFORDABLE UTILITY SERVICES AND
ENERGY EFFICIENCY IN PENNSYLVANIA (“CAUSE-PA”)

July 3, 2018

1 **PREPARED REBUTTAL TESTIMONY OF MITCHELL MILLER**

2 **Q: Please state your name, occupation and business address.**

3 A: Mitchell Miller. I currently provide consulting services regarding utility programs that
4 promote the public interest with a focus on low income households. My address is 60 Geisel
5 Road, Harrisburg, PA 17112.

6 **Q: Did you previously submit testimony in this proceeding?**

7 A: Yes. I submitted Direct Testimony, pre-marked as CAUSE-PA Statement 1.

8 **Q: What is the purpose of your rebuttal testimony?**

9 A: The purpose of my rebuttal testimony is to respond to the Direct Testimony of D. C. Patel
10 on behalf of the Bureau of Investigation and Enforcement, and the Direct Testimony of Anthony
11 Cusati, III, on behalf of Shipley Choice LLC and Interstate Gas Supply, Inc.

12 **Q: How is your rebuttal testimony organized?**

13 A: I will first address several conclusions D.C. Patel draws about the Hardship Fund
14 Program, and will discuss why Patel’s recommendations to disallow a substantial portion of
15 funding for Columbia’s Hardship Fund program are not in the public interest. In sum,
16 elimination of hardship funding for nearly 1,000 vulnerable low income families at a time when
17 rates are on the rise would unduly punish those in our communities who are most in need. The
18 pennies gained for other residential customers each year simply does not justify that cost. I will
19 then respond to Anthony Cusati’s recommendation that Columbia allow suppliers to bill for non-
20 energy products and services directly on Columbia’s bill. As I conclude below, Cusati’s proposal
21 is, likewise, not in the public interest. Ultimately, the proposals of both Patel and Cusati undercut

1 affordability and access to safe, stable utility services – guiding principles to the approval of a
2 just and reasonable rate – and should be rejected.

3 **Hardship Fund Program**

4 **Q: Please summarize the Direct Testimony of D.C. Patel to which you wish to respond.**

5 A: D.C. Patel makes four recommendations related to funding for Columbia’s Hardship
6 Fund program: (1) that Columbia be required to stop allocating pipeline refunds and penalty
7 credits to fund a portion of its Hardship Fund program effective March 1, 2018, (I&E Stmt. 1 at
8 46:2-6); (2) that Columbia be required to match the pipeline refunds and penalty credits already
9 allotted to the Hardship Fund with shareholder contributions, (I&E St. 1 at 46:7-15); (3) that
10 refunds and credits received or to be received after March 1, 2018 be refunded to residential
11 customers through rates, (I&E St. 1 at 46:16-21); and (4) that Columbia be required to stop its
12 current practice of recovering administrative costs for its Hardship Fund program through its
13 Universal Service Program Rider USP Rider.

14 In support of his recommendations, D.C. Patel asserts that the Hardship Fund is a
15 “voluntary fund” that must be “fully funded through voluntary customer contributions”, and that
16 Columbia’s use of supplier refunds and penalty credits – in any amount – should therefore be
17 disallowed. (I&E St. 1 at 47:6-21). Patel notes that refunds and credits are originally paid for by
18 default service customers, and that default service customers should therefore receive the
19 credits/refunds directly. (I&E St. 1 at 47:8). Patel argues that use of refunds and credits for the
20 Hardship Fund “creates inaccuracy in the price-to-compare.” (I&E St. 1 at 49:18-22). Patel
21 asserts that Columbia has adequate time between now and the start of the 2021/2022 program
22 year to “explore and implement additional avenues to increase voluntary contributions for fully
23 funding the Hardship Fund from voluntary contributions.” (I&E St. 1 at 49:5-15).

1 Patel also attempts to interpret two Orders in support of the recommendations. First, he
2 cites to the Commission's December 3, 2015 Order in Columbia's 2015 base rate proceeding,
3 which he claims approved Columbia's use of credits/refunds to fill in the \$375,000 annual gap in
4 Columbia's Hardship Fund budget. (I&E St. 1 at 48:4-11). Patel asserts that the Commission's
5 Order in this proceeding was "simply intended to instruct the Company to devise a plan by which
6 it will transition toward funding its Hardship Fund entirely through voluntary means and to
7 instruct the Parties to consider ways for Columbia to raise additional voluntary funding." (I&E
8 St. 1 at 48:4-11).

9 In addition to the Commission's Order, Patel cites to a 2008 Order of the Federal
10 Regulatory Commission (FERC) approving a stipulation and consent agreement that awarded
11 Columbia approximately \$770,000 in pipeline penalty credits. (I&E St. 1 at 48:12-18). He asserts
12 that, in this Order, FERC "indicated that it expected all state regulatory commissions to have
13 local distribution companies (LDCs) pass the amount to ratepayers." (I&E St. 1 at 48:12-22,
14 49:1-2). In Patel's opinion, making the funds available to ratepayers facing the imminent loss of
15 natural gas service does not fulfill FERC's expectation that the funds be returned to ratepayers.

16 Finally, Patel argues that Columbia's recovery of administrative costs for the Hardship
17 Fund through the USP Rider is "not justified" because the program "is not part of the mandated
18 USP programs and is intended to be funded voluntarily." (I&E St. 1 at 50:2-11).

19 **Q: Do you agree with D.C. Patel's recommendations?**

20 A: For the most part, no. As I explained in my Direct Testimony, supplemental funding
21 remains critical to ensure that assistance remains available to economically vulnerable residential
22 consumers, many of whom have no access to other forms of bill-pay assistance through CAP or
23 LIHEAP. That said, I do support Patel's recommendation that Columbia match the pipeline

1 credits and refunds with shareholder funds, as it does with other voluntary ratepayer
2 contributions. Matching the funds with shareholder dollars would stretch the availability of
3 refunds and credits to fill the funding gap, and would help secure the financial stability of the
4 program over the long term.

5 Ultimately, while I continue to believe that Columbia should make every effort to
6 improve its fundraising efforts to raise additional voluntary contributions, I oppose D.C. Patel's
7 recommendations to eliminate this critical source of funding for emergency grant assistance to
8 Columbia's economically vulnerable customers. Not only does the assistance go to help
9 vulnerable households who often have no other assistance available to prevent a pending
10 termination, it also correspondingly helps reduce uncollectible expenses. Indeed, the Hardship
11 Fund is a necessary and critical component to Columbia's Universal Service program portfolio,
12 and its funding must not be diminished or reduced. This is especially true in the context of this
13 base rate proceeding, wherein rates will undoubtedly continue to climb, causing the
14 corresponding need for the program to also climb.

15 **Q: Is D.C. Patel correct that the Hardship Fund is "not part of the mandated USP**
16 **programs"?**

17 A: No. The Hardship Fund program is not a voluntary program. It is a required component
18 of Columbia's portfolio of Universal Service programs, approved as part of Columbia's
19 Universal Service and Energy Conservation Plan (USECP). It is, in fact, the only program in
20 Columbia's approved USECP which offers bill-pay assistance to those with income between
21 151-200% of the Federal Poverty Level (FPL). While D.C. Patel is correct that many utilities
22 fund their Hardship Fund programs with donations from ratepayers and shareholders alone, it is
23 not a requirement found in law or policy. Cuts to the funding or the availability of Columbia's

1 current Hardship Fund program would not only cause harm to financially vulnerable ratepayers,
2 as I discussed at length in Direct Testimony, I am advised by counsel that it would also likely
3 interfere with the Commission’s obligation pursuant to the Natural Gas Choice and Competition
4 Act (Choice Act) to ensure that Universal Service programs are adequately funded, cost
5 effective, and “maintained at levels consistent with [the Act].”¹

6 **Q: Does Columbia have adequate time to raise sufficient funding from voluntary**
7 **sources to replace the funding currently provided through credits and refunds by the start**
8 **of the 2021/2022 program year, as asserted by D.C. Patel?**

9 A: No, likely not. It takes years to design and implement successful fundraising campaigns,
10 and in turn requires substantial investment of staff time and resources. As outlined by Deborah
11 Davis in her Direct Testimony, Columbia has undertaken quantifiable steps to enhance its
12 voluntary donations. (CPA St. 14 at 4-10). While I believe that Columbia should be required to
13 continue to actively engage with all of its stakeholders to develop new and innovative fund
14 raising efforts, these efforts alone cannot be relied upon to fill the funding gap that would be
15 created by eliminating the use of refunds and credits.

16 **Q: Does Columbia’s plan to use credits and refunds for its Hardship Fund program**
17 **contradict the Commission’s 2015 Columbia Base Rate Order and FERC’s 2008 Order**
18 **Approving Stipulation and Consent Agreement?**

19 A: No. D.C. Patel’s conclusions regarding the Commission’s 2015 Order and FERC’s 2008
20 Order are also incorrect. (I&E St. 1 at 48: 4-22, 49:1-2). I am advised by counsel that Patel’s
21 interpretation of the FERC and Commission Orders are legal issues, and will be addressed more
22 thoroughly by counsel for CAUSE-PA in its Main Brief. With that said, it bears noting that the

¹ 66 Pa. C.S. § 2203(3), (6)-(10).

1 Commission’s 2015 Order spoke only to Columbia’s recovery of funding for the Hardship Fund
2 program through the USP Rider, and – in requiring Columbia to develop additional voluntary
3 donations – explicitly clarified that “it is our intent that the exact amount of money that will be
4 raised through the plan from voluntary sources and additional fundraising efforts shall not be
5 assumed.”² There was no proposal under consideration in that proceeding to use credits or
6 refunds to partially fund the Hardship Fund program, and the merits of using credits and/or
7 refunds in this manner were not at addressed. Since the 2015 Order, there have since been two
8 intervening Orders from the Commission that have specifically addressed and approved the use
9 of refunds and credits as a partial funding source for its Hardship Fund program.³

10 **Q: Do you agree with D.C. Patel’s final conclusion that Columbia’s proposal to recover**
11 **of administrative fees for Columbia’s Hardship Fund through the USP Rider is**
12 **unjustified?**

13 A: No. D.C. Patel supports this conclusion by asserting, again, that Columbia’s Hardship
14 Fund program “is not part of the mandated USP programs.” (I&E St. 1 at 50:4-5). As I
15 explained above, Columbia’s Hardship Fund program is not voluntary. It is a critical component
16 within Columbia’s Commission-approved USECP. Actions to diminish funding for the Hardship
17 Fund would cause harm to vulnerable households and would undermine the universal service
18 mandates enshrined in the Choice Act. As Columbia witness Deborah Davis noted in direct
19 testimony, other utilities collect administrative fees for the Hardship Fund through USP Riders

² Pa. PUC v. Columbia Gas of Pa., Inc., Opinion and Order, Docket No. R-2015-2468056, at 51, 53, para. 6-7 (Dec. 3, 2015).

³ See Pa. PUC v. Columbia Gas of Pa., Inc., Order, Docket R-2016-2529660 (Oct. 27, 2016) (adopting Pa. PUC v. Columbia Gas of Pa., Inc., Recommended Decision, Docket R-2016-2529660, at 27-28 (Sept. 28, 2016)); see also Petition of Columbia Gas of Pa., Inc. for Approval to Use Penalty Credit and Refund Proceeds for Its Residential Hardship Fund, Order, Docket No. P-2018-3000160 (June 14, 2018).

1 and/or through general Operations and Maintenance budgets. (CPA St. 14 at 24:12-13).⁴
2 Allowing Columbia to collect administrative fees through the USP Rider is not only consistent
3 with policies at other utilities, it is also prudent from a public policy perspective, as it maximizes
4 the grant funding available to economically vulnerable consumers who face unique and difficult
5 challenges to maintaining natural gas service.

6 **Non-Basic Products and Services**

7 **Q: Please summarize the Direct Testimony of Anthony Cusati, III, to which you wish to**
8 **respond.**

9 A: Anthony Cusati, on behalf of the NGS Parties, seeks approval of a proposal to allow
10 natural gas suppliers to bill for non-commodity products and services directly on Columbia's
11 bill. (NGS Parties St. 2, at 7:15-20). In support of his proposal, Cusati argues that Columbia
12 already bills customers directly for non-commodity products and services offered by a former
13 affiliate. (Id. at 2:20-23 to 3:1). He asserts that Columbia's practice offers Columbia a
14 competitive edge in the non-commodity marketplace. (Id. at 3:8-16).

15 **Q: Do you agree with the proposal to require Columbia to allow suppliers to bill for**
16 **non-commodity products and services directly on Columbia's bill?**

17 A: No. In my opinion, neither utilities nor suppliers should be permitted to bill for non-
18 energy, non-essential services on their utility bill. As I explained at length in my direct
19 testimony, an astounding number of Pennsylvanians struggle to keep up with the cost of basic
20 utility service. (CAUSE-PA St. 1 at 8-12). Layering non-commodity products and services on a
21 customer's bill will exacerbate payment issues, and could cause for higher uncollectible

⁴ See Revised Universal Service and Energy Conservation Plan for the Four-Year Period Jan. 1, 2014 – Dec. 31, 2017, Docket No. M-2013-2371824, at Appendix A-2, A-5, A-9, A-13 (revised pursuant to Final Order entered Jan. 15, 2015).

1 expenses. When a bill is unaffordable, consumers are less likely to pay. Even though the non-
2 commodity products and services cannot be recovered as an uncollectible expense or directly
3 cause for termination, the addition of non-commodity products and services to a customer's basic
4 utility bill will raise the total amount due on the customer's bill, causing more consumers to fall
5 behind on their basic service charges and, ultimately, face termination.

6 The need to protect affordability and access to basic services outweighs the added
7 convenience of being billed for non-commodity products and services directly on the customer's
8 natural gas bill. Indeed, added convenience is the only potential benefit for consumers that Cusati
9 could identify. In balance, the added convenience of a single bill does not outweigh threats to
10 the affordability and accessibility of basic service which I outlined above.

11 **Q: Apart from affordability, do you have any additional concerns about Columbia's**
12 **current practice of billing for non-commodity products and services?**

13 A: Yes. Based on Mr. Cusati's testimony and Columbia's interrogatory responses to NRG, I
14 became concerned about Columbia's consumer privacy policies regarding third party access to
15 customer data. It is currently unclear the breadth and scope of how much personal customer
16 information is shared between Columbia and third-party sellers, and whether consumers are
17 adequately informed of the disclosure and provided with a convenient method to restrict the
18 release of their information.⁵ CAUSE-PA submitted interrogatories to Columbia regarding its
19 current information-sharing arrangements, and responses are forthcoming. I reserve the right to
20 comment on privacy matters further in Surrebuttal Testimony.

⁵ See 52 Pa. C.S. § 62.78 (Customer Information Disclosure).

1 **Q: Please summarize your recommendation regarding Mr. Cusati's proposal to expand**
2 **Columbia's current practice of billing for non-commodity products and services on behalf**
3 **of third-party sellers?**

4 **A:** I recommend that the Commission reject Mr. Cusati's proposal.

5 **Q: Does this conclude your Direct Testimony?**

6 **A:** Yes.

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VERIFICATION

I, Mitchell Miller, verify that CAUSE-PA Statement 1, the Direct Testimony of Mitchell Miller, and Attachment A thereto; CAUSE-PA Statement 1-R, the Rebuttal Testimony of Mitchell Miller; and CAUSE-PA Statement 1-SR, the Surrebuttal Testimony of Mitchell Miller were prepared by me or under my direct supervision, and are true and correct to the best of my knowledge, information and belief.

I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



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