
Lindsay A. Berkstresser
Principal

lberkstresser@postschell.com
717-612-6021 Direct
717-731-1985 Direct Fax
File #: 196137

March 22, 2023

VIA ELECTRONIC FILING

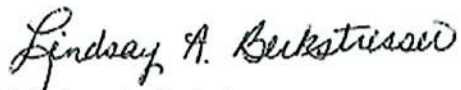
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Attached for filing is the Non-Unanimous Settlement Petition and accompanying Statements in Support on behalf of Columbia Gas of Pennsylvania, Inc., in the above-referenced proceeding. Copies will be provided per the Certificate of Service.

Respectfully submitted,



Lindsay A. Berkstresser
Principal

LAB/cls
Attachment

cc: Honorable Christopher P. Pell (*via email; w/att.*)
Honorable John M. Coogan (*via email; w/att.*)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

VIA E-MAIL ONLY

Erica McLain, Esquire
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
ermclain@pa.gov

Aron J. Beatty, Esquire
Lauren E. Guerra, Esquire
Barrett C. Sheridan, Esquire
Harrison W. Breitman, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
OCAColumbiaGreenPathRider@paoca.org

John W. Sweet, Esquire
Ria M. Pereira, Esquire
Lauren N. Berman, Esquire
Elizabeth R. Marx, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org

Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101
sgray@pa.gov

Todd S. Stewart, Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tsstewart@hmslegal.com
Counsel for RESA/NGS Parties

Thomas J. Sniscak, Esquire
Whitney E. Snyder, Esquire
Phillip D. Demanchick, Jr., Esquire
Hawke, McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com
wesnyder@hmslegal.com
pddemanchick@hmslegal.com
Counsel for The Pennsylvania State University

Date: March 22, 2023



Nicholas A. Stobbe

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2022-3032167
Office of Consumer Advocate	:	C-2022-3032404
Retail Energy Supply Association,	:	C-2022-3032550
Shipleigh Choice, LLC, and NRG Energy, Inc.	:	
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	

JOINT PETITION FOR NON-UNANIMOUS SETTLEMENT

TO ADMINISTRATIVE LAW JUDGES CHRISTOPHER PELL AND JOHN COOGAN:

I. INTRODUCTION

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), the Office of Small Business Advocate (“OSBA”), and Columbia Gas of Pennsylvania, Inc. (“Columbia” or the “Company”), parties to the above-captioned proceedings (hereinafter collectively referred to as the “Joint Petitioners”), hereby join in this Joint Petition for Non-Unanimous Settlement (“Non-Unanimous Settlement”) and respectfully request that Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John M. Coogan (collectively, the “ALJs”) and the Commission approve the Non-Unanimous Settlement as set forth below. The Non-Unanimous Settlement has been agreed to or unopposed by all active parties in this proceeding, except for the Office of Consumer Advocate (“OCA”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) and the Retail Energy Supply Association, Shipleigh Choice, LLC and NRG Energy, Inc.

(“RESA/NGS Parties”). The Pennsylvania State University (“PSU”) has indicated that they do not oppose the Joint Petition for Non-Unanimous Settlement.

As fully set forth and explained below, the Joint Petitioners have agreed to a settlement that resolves the issues among them, in the above-captioned proceeding. In support of the Non-Unanimous Settlement, the Joint Petitioners state the following:

II. BACKGROUND

1. Columbia is a “public utility” and “natural gas distribution company” (“NGDC”) as those terms are defined in Sections 102 and 2202 of the Public Utility Code, 66 Pa.C.S. §§ 102, 2202. Columbia provides natural gas distribution, sales, transportation, and/or supplier of last resort services to approximately 440,000 retail customers in portions of 26 counties of Pennsylvania.

2. On April 26, 2022, Columbia filed Supplement No. 343 to Columbia’s Tariff – Gas Pa. P.U.C. No. 9 (“Supplement No. 343”) to become effective on January 1, 2023, which proposes the implementation of a 5-year pilot program called the Green Path Rider. The Green Path Rider pilot program is a fee based, opt-in program that would allow customers an option to reduce some or all of their emissions related to their natural gas usage. To do this, Columbia will purchase renewable natural gas (“RNG”) environmental attributes and carbon offsets to match the customer’s election of either a 50% or 100% reduction in their emissions, and the customer will be charged an additional fee per therm that reflects the cost of the RNG environmental attributes and carbon offsets purchased by Columbia on behalf of the customer. The Green Path Rider would be entirely voluntary.

3. Also on April 26, 2022, Columbia filed a Motion to Consolidate Supplement No. 343 with its then pending base rate case filed at Docket No. R-2022-3031211, so that the filing could be litigated as part of Columbia’s base rate proceeding.

4. On May 9, 2022, the OCA filed a Public Statement and a Formal Complaint against Supplement No. 343 at Docket No. C-2022-3032404. On May 9, 2022, OCA also filed an Answer in Opposition to Columbia's Motion to Consolidate the Green Path Rider with the rate case, which was supported by OSBA and CAUSE-PA.

5. On May 12, 2022, the ALJs issued an Order denying Columbia's Motion to Consolidate Supplement No. 343 with the currently pending base rate case at Docket No. R-2022-3031211.

6. On May 18, 2022, RESA/NGS Parties filed a Formal Complaint against Supplement No. 343 at Docket No. C-2022-3032550.

7. I&E filed a Notice of Appearance on May 19, 2022.

8. Also on May 19, 2022, the OSBA filed a Notice of Appearance, Notice of Intervention, Public Statement, and Verification.

9. On June 14, 2022, Penn State filed a Petition to Intervene.

10. On June 14, 2022, Columbia filed a letter with the Commission indicating that the Company provided public notice of Supplement No. 343 by publication in newspapers of general circulation within the Company's service territory. Specifically, Columbia provided notice on June 10, 2022, in the following newspapers: Trib Total Media (Tribune Review); Valley News Dispatch; York Daily Record/York Dispatch; Somerset Daily American; Uniontown Herald Standard; Daily Courier; Kittanning Leader Times; Gettysburg Times; Bradford Era; Center Daily Times; Butler Eagle; and the Washington Observer-Reporter. Additionally, on June 12, 2022, Columbia provided public notice of Supplement No. 343 by publication in the Pittsburgh Post-Gazette. Moreover, Columbia published notice of Supplement No. 343 on its social media

platforms on June 17, 24, and 30, 2022. The Company's website has included notice of Supplement No. 343 since June 12, 2022.

11. On June 16, 2022, the Commission instituted an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Supplement No. 343. Additionally, pursuant to Section 1308(b) of the Public Utility Code, 66 Pa. C.S.A. § 1308(b), Supplement No. 343 was suspended by operation of law until July 1, 2023, unless permitted by Commission Order to become effective at an earlier date.

12. On June 24, 2022, Columbia made a filing suspending the proposed rates and rules contained in Supplement No. 343 until July 1, 2023.

13. On June 30, 2022, CAUSE-PA filed a Petition to Intervene.

14. On July 6, 2022, a telephonic Prehearing Conference was held, at which a procedural schedule was agreed to by the parties and adopted by the ALJs.

15. The active parties in this proceeding conducted substantial formal and informal discovery in this proceeding. In accordance with the litigation schedule, various parties filed direct, rebuttal, surrebuttal and rejoinder testimony.

16. An evidentiary hearing was held on February 15, 2023, for the purpose of admitting all parties' evidence into the record and allowing counsel for OSBA to conduct cross-examination of Columbia's witnesses Erich Evans and Andrew Campbell.

17. The parties held several settlement discussions, and as a result of those discussions, the Joint Petitioners were able to reach an agreement regarding the issues among them.

18. The Non-Unanimous Settlement terms are set forth in the following Section III.

III. NON-UNANIMOUS SETTLEMENT

19. The following terms of this Non-Unanimous Settlement reflect a carefully balanced compromise of the interests of the Joint Petitioners in this proceeding. The Joint Petitioners agree

that the Non-Unanimous Settlement is in the public interest. The Joint Petitioners respectfully request that the Non-Unanimous Settlement be approved subject to the terms and conditions of this Non-Unanimous Settlement specified below:

A. PILOT TERM AND RENEWAL OPTION

20. Columbia will implement the Green Path Rider as a three-year pilot program (September 1, 2023 – August 31, 2026), with the option to file for a two-year renewal that would continue the pilot program through to August 31, 2028. In the event that Columbia decides to file to renew the pilot for the additional two years (i.e., September 1, 2026 – August 31, 2028), the Company will inform the parties no later than January 30, 2026, and will file its request with the Commission no later than February 28, 2026. Parties agree to submit any comments or objections to the Company’s request within 30 days, with the Company having the right to submit reply comments. The parties agree to allow the pilot program to continue operation until the Commission approves or denies Columbia’s request for renewal.

B. ANNUAL REPORTING

21. The parties agree that Columbia will file an annual Green Path Rider Report at the above referenced docket, on or before April 1 each year of the program. The program will include the following:

- the number of customers enrolled in the program per month, including a breakdown of residential and commercial customers by participation level;
- the number of participants who involuntarily exited, number of program participants who re-enrolled, and number of participants who did not re-enroll;
- the number of renewable natural gas (“RNG”) environmental attributes and carbon offsets purchased for the program;
- the entit(ies) that certified and verified the RNG environmental attributes or carbon offset;
- the price and costs, paid by the Company on a bundled basis, of RNG environmental attributes and carbon offsets purchased for the program (if the bundled price changes during the program year, both the old price and the new price shall be clearly communicated in the annual report);

- the supply of carbon offsets purchased for the program; this includes the State, Territory, or Province where projects are located, as well the category of each project generating credits sold to the Company for the GPR (*e.g.*, energy efficiency, landfill gas, forestry);
- information as to the origin of the RNG environmental attributes and carbon offsets purchased for the program; and
- summary of program activities, as well as a copy of any customer education materials sent to customers.

C. CONSUMER EDUCATION

22. Consumer education materials are inclusive of all information that Columbia provides to consumers on the GPR, including pricing and changes to pricing. The Company will provide consumer education materials prepared by the Company to the Statutory Advocates for review at least 30 days prior to the Company's desired launch date for the materials. The Company shall coordinate up to two roundtable virtual meetings with Statutory Advocates to discuss language for the first set of consumer education materials, and endeavor to come to a consensus on the language.

23. For any subsequently developed consumer education materials, the Company will provide consumer education materials prepared by the Company to the Statutory Advocates for review at least 30 days prior to the Company's desired launch date for the materials. If needed, the Company shall coordinate a virtual meeting with Statutory Advocates to discuss language for consumer education materials, and endeavor to come to a consensus on language. Otherwise, coordination for review and approval of subsequent consumer education materials can occur via email.

D. DATA COLLECTION

24. The Company will provide surveys to participating customers at the time of enrollment and exit from the program, seeking customer feedback relating to decision to enroll/exit the program; feedback on rate/price; and opinion and understanding of carbon offsets, RNG

environmental attributes, and RNG. Copies of surveys conducted by the Company, as well as survey results, will be provided to the Statutory Advocates, in a confidential manner, at the time the Company submits its Annual Report.

E. INFORMATION TECHNOLOGY AND CONSUMER EDUCATION COST RECOVERY

25. As described in the Rebuttal Testimony of Columbia Witness Erich A. Evans (Columbia Statement No. 1-R, pages 2 - 3), the one-time information technology (“IT”) costs and annual expense for consumer education will be recovered only from participating customers through the Green Path Rider rate. The Company will recover the one-time IT costs over the 3-year period of the initial pilot program term.

26. If the Company opts to extend the program for an additional 2 years, to the extent that the IT costs have not been fully recovered, the Company may continue to recover this cost from participating customers. In light of recovering costs from the participating customers, the Company shall not seek to recover any portion of the one-time IT costs in base rates applicable to all customers.

F. CARBON OFFSETS

27. The carbon offsets purchased by Columbia will be limited to projects located in North America. The Company shall supply written verification of the restriction to the Statutory Advocates within 14 days of finalizing this settlement.

28. Written verification could include a draft copy of the confirmation sheet used by the offset supplier which documents the requirement that carbon offsets purchased will be restricted to North American offsets.

IV. NON-UNANIMOUS SETTLEMENT IS IN THE PUBLIC INTEREST

29. This Non-unanimous Settlement was achieved by the Joint Petitioners after an extensive investigation of Columbia's filing, including discovery and the submission of direct, rebuttal, surrebuttal and rejoinder testimony by the Joint Petitioners and other parties to this proceeding.

30. Joint Petitioners have submitted, along with this Non-unanimous Settlement, their respective Statements in Support setting forth the basis upon which each believes the Non-unanimous Settlement to be fair, just and reasonable and therefore in the public interest. The Joint Petitioners' Statements in Support are attached hereto as Appendices "A" through "C."

V. CONDITIONS OF NON-UNANIMOUS SETTLEMENT

31. This Non-Unanimous Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission modifies the Non-Unanimous Settlement, then any Joint Petitioner may elect to withdraw from this Non-Unanimous Settlement and may proceed with litigation and, in such event, this Non-Unanimous Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of any Order modifying the Non-Unanimous Settlement.

32. This Partial Settlement and its terms and conditions may not be cited as precedent in any future proceeding, except to the extent required to implement this Non-Unanimous Settlement.

33. The Commission's approval of the Non-Unanimous Settlement shall not be construed to represent approval of any Joint Petitioner's position on any issue, except to the extent required to effectuate the terms and agreements of the Non-Unanimous Settlement in these and future proceedings involving Columbia.

34. It is understood and agreed among the Joint Petitioners that the Non-Unanimous Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any Joint Petitioner in these proceedings if they were fully litigated.

35. This Non-Unanimous Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. The Non-Unanimous Settlement is the product of compromise between and among the Joint Petitioners. This Non-Unanimous Settlement is presented without prejudice to any position that any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings except to the extent necessary to effectuate the terms and conditions of this Non-Unanimous Settlement. This Non-Unanimous Settlement does not preclude the Joint Petitioners from taking other positions in proceedings involving other public utilities in any other proceeding.

36. The Joint Petitioners recognize that the proposed Non-Unanimous Settlement does not bind the parties that do not choose to join herein. A copy of the proposed Non-Unanimous Settlement and attached Appendices hereto, including Statements in Support, are simultaneously being served upon all parties in this proceeding.

37. If the ALJs adopt the Non-Unanimous Settlement without modification, the Joint Petitioners waive their individual rights to file exceptions with regard to the Non-Unanimous Settlement. Joint Petitioners retain their rights to file briefs, exceptions and replies to exceptions with respect to the issues that are reserved for litigation.

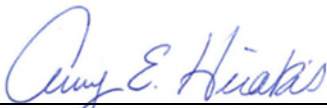
WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request as follows:

1. That the Honorable Chief Deputy Administrative Law Judge Christopher P. Pell and Administrative Law Judge John M. Coogan, and the Commission, approve this Non-Unanimous Settlement including all terms and conditions thereof, without modification;

2. That the Commission's investigation at Docket Number R-2022-3032167, and the Complaints of the OCA (C-2022-3032404) and RESA/NGS Parties' (C-2022-3032550), be marked closed.

3. That the Commission enter an Order approving implementation of the Green Path Rider, as modified by the terms set forth in the Joint Petition for Non-Unanimous Settlement, and authorizing Columbia Gas of Pennsylvania, Inc. to file a tariff supplement in compliance with the Commission's Order.

Respectfully submitted,



Amy. E. Hiras, I.D. No. 310094
Columbia Gas of Pennsylvania, Inc.
800 North 3rd Street, Suite 204
Harrisburg, PA 17102

Dated: March 22, 2023

Michael W. Hassell, I.D. No. 34851
Lindsay A. Berkstresser, I.D. No. 318370
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601

Theodore J. Gallagher, I.D. No. 90842
Columbia Gas of Pennsylvania, Inc.
121 Champion Way, Suite 100
Canonsburg, PA 15317

*Counsel for Columbia Gas of Pennsylvania,
Inc.*

/s/ Steven Gray _____
Steve Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
Forum Place, 1st Floor
Harrisburg, PA 17101-1923

Dated: March 22, 2023

*Counsel for the Office of Small Business
Advocate*

Erika L. McLain, Esquire
Bureau of Investigation & Enforcement
PO Box 3265
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17105-3265


Dated: _____

*Counsel for Bureau of Investigation &
Enforcement*

Steve Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
Forum Place, 1st Floor
Harrisburg, PA 17101-1923

*Counsel for the Office of Small Business
Advocate*

Dated: _____



Erika L. McLain, Esquire
Bureau of Investigation & Enforcement
PO Box 3265
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17105-3265

*Counsel for Bureau of Investigation &
Enforcement*

Dated: March 22, 2023

APPENDIX A

**Statement in Support of Non-Unanimous Settlement of
Columbia Gas of Pennsylvania, Inc.**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2022-3032167
Office of Consumer Advocate	:	C-2022-3032404
Retail Energy Supply Association,	:	C-2022-3032550
Shipley Choice, LLC, and NRG Energy, Inc.	:	
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	

**COLUMBIA GAS OF PENNSYLVANIA, INC. STATEMENT IN SUPPORT OF THE
JOINT PETITION FOR NON-UNANIMOUS SETTLEMENT**

I. INTRODUCTION

Columbia Gas of Pennsylvania, Inc. (“Columbia” or the “Company”) submits this Statement in Support of the Joint Petition for Non-Unanimous Settlement (“Non-Unanimous Settlement”) in the above-captioned proceedings entered into by Columbia, the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), and the Office of Small Business Advocate (“OSBA”) (hereinafter collectively referred to as the “Joint Petitioners”), parties to the above-captioned proceeding. The Pennsylvania State University (“PSU”) has indicated to Columbia’s counsel that they do not oppose the Settlement.

The Non-Unanimous Settlement was achieved only after a comprehensive review and evaluation of the parties’ respective positions on the Company’s proposed Green Path Rider pilot program and only after numerous settlement discussions between the Joint Petitioners. The Settlement resolves all issues among the Joint Petitioners in this proceeding¹, and addresses many

¹ The Office of Consumer Advocate (“OCA”), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) and the Retail Energy Supply Association, Shipley Choice, LLC and

of the issues raised by other parties in this proceeding. The terms and conditions of the proposed Green Path Rider pilot program, as modified by the Non-Unanimous Settlement, are just and reasonable, and as discussed below, approval of the Non-Unanimous Settlement is in the public interest. Accordingly, Columbia respectfully requests that Deputy Chief Administrative Law Judge Christopher Pell and Administrative Law Judge John Coogan (collectively, the “ALJs”) recommend approval of, and the Commission approve, the Non-Unanimous Settlement without modification.

II. STANDARDS FOR APPROVAL OF SETTLEMENT

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully-litigated proceeding. *See* 52 Pa. Code § 69.401. The Commission has explained that parties to settled cases are afforded flexibility in reaching amicable resolutions, so long as the settlement is in the public interest. *Pa. PUC v. MXenergy Electric Inc.* Docket No. M-2012-2201861, 2013 Pa. PUC LEXIS 789 (Opinion and Order entered Dec. 5, 2013). In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm’n v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991).

The Commission’s policy permits parties to enter “non-unanimous” settlements. *See* 52 Pa. Code § 69.401. *See also* 52 Pa. Code § 5.232, § 69.406. As with full settlements, non-unanimous settlements must be reasonable and in the public interest. *See Pa. PUC v. City of Bethlehem - Water Department*, Docket No. R-2020-3020256, 2021 Pa. PUC LEXIS 116 (April

NRG Energy, Inc. (“RESA/NGS Parties”) are not parties to the Non-Unanimous Settlement. Columbia addressed the OCA’s and RESA/NGS Parties’ issues in its Main Brief submitted on March 10, 2023, and the Company is filing a Reply Brief concurrently with the Non-Unanimous Settlement to respond to the arguments raised by OCA and RESA/NGS Parties. CAUSE-PA did not submit testimony in this proceeding.

15, 2021)(“*City of Bethlehem – Water*”). The Commission has approved non-unanimous settlements as being just and reasonable and in the public interest, and has not rejected or disfavored settlements because they are non-unanimous. *See, e.g. City of Bethlehem – Water; Pa. PUC v. Pike County Light and Power Company – Electric*, Docket No. R-2020-3022135 (Recommended Decision May 5, 2021; Order entered June 23, 2021)(“*Pike County*”); *Pa. PUC v. Pennsylvania-American Water Company*, Docket No. R-2020-3019369 (Order entered Feb. 25, 2021). The standards for approving the terms of a non-unanimous settlement are the same as those for deciding a fully contested case, i.e., the parties to the non-unanimous settlement must demonstrate that the proposed settlement is supported by substantial evidence and that the rates agreed to are just and reasonable and in conformity with the Commission’s orders and regulations. *See* 66 Pa C.S. § 1301; *Pike County*, Docket No. R-2020-3022135.

The Non-Unanimous Settlement was achieved after extensive discovery, multiple rounds of testimony, the cross examination of two of Columbia’s witnesses, and discussions among the parties. Columbia submits that the Non-Unanimous Settlement fairly balances the interests of the Company and its customers and, therefore, is in the public interest. For the reasons set forth below, the Settlement is just and reasonable, and in the public interest.

III. SPECIFIC NON-UNANIMOUS SETTLEMENT TERMS

A. PILOT TERM AND RENEWAL OPTION (NON-UNANIMOUS SETTLEMENT ¶ 20)

The Non-Unanimous Settlement, at paragraph 20, provides that Columbia will implement the Green Path Rider as a three-year pilot program (September 1, 2023 – August 31, 2026), with the option to file for a two-year renewal that would continue the pilot program through to August 31, 2028. Columbia had originally proposed that the pilot program be approved for a period of five years, but has agreed to shorten the duration of the pilot program to three years, with the

potential of extending the pilot program for an additional two years. Shortening the initial period of the pilot program, and requiring Columbia to affirmatively seek a two-year extension, creates the opportunity for all parties, including Columbia, to evaluate the program sooner and assess whether there is merit in continuing the pilot program. Columbia submits that this settlement term represents a reasonable compromise between Columbia and OSBA, and provides Columbia with an adequate period of time to collect data from participating customers in order to evaluate whether an extension of the pilot program is warranted

Additionally, this settlement provision sets forth the process for the Company to seek to continue the pilot program for an additional two years. The process provided for in the Non-Uniform Settlement balances Columbia's interest in ensuring that there is not a break in the pilot program between the initial three (3) program years and the following two (2) program years, should the Commission approve an 2-year extension, with the interests of the other parties in having an adequate period of time to respond to the Company's request to extend the pilot program.

B. ANNUAL REPORTING (NON-UNANIMOUS SETTLEMENT ¶ 21)

The Non-Uniform Settlement, at paragraph 21, sets forth the information that Columbia must include as part of its annual report that will be filed at the above referenced docket each April 1st for the duration of the pilot program. This information Columbia has committed to collect and provide as part of its annual report includes information related to customer enrollment, amount of RNG environmental attributes and carbon offsets purchased by Columbia on behalf of customers, the entities that certified and verified the RNG environmental attributes and carbon offsets, price of the RNG environmental attributes and carbon offsets, location and category of the projects generating the carbon offsets sold to Columbia, and a summary and copy of all customer education materials provided to customers. Columbia submits that the information to be provided in the annual report addresses concerns raised by OSBA and OCA about the types and quality of

RNG environmental attributes and carbon offsets. This information can also be used by Columbia and the other parties to evaluate the pilot program at the conclusion of its 3-year term.

C. CONSUMER EDUCATION (NON-UNANIMOUS SETTLEMENT ¶ 22 & 23)

Some parties to this proceeding contended that the Company's consumer education materials were or could potentially be misleading regarding the design of the program. Throughout this proceeding, Columbia has maintained that it is committed to being transparent to consumers that the Green Path Rider uses RNG Environmental attributes and carbon offsets, as opposed to RNG supply. Paragraphs 22 and 23, which requires Columbia to provide the Statutory Advocates all consumer education material for review at least 30 days in advance of distributing the educational materials to consumers and to host up to two virtual roundtables for the purpose of reviewing and discussing the language of the educational materials, ensures that the Statutory Advocate have the opportunity to provide feedback and suggested edits to Columbia's draft materials before those materials are finalized and presented to consumers. Columbia agreed to these provisions to show its commitment to providing consumers with the most accurate and transparent information relating to the Green Path Rider pilot program.

D. DATA COLLECTION (NON-UNANIMOUS SETTLEMENT ¶ 24)

In testimony, Columbia witness noted that the Company intends to continue to use surveys to collect information from customers regarding their enrollment in the Green Path Rider pilot program, their views and interests in renewable resources. (Columbia St. No. 1-R, p. 6.) Paragraph 24 of the Non-Unanimous Settlement makes the use of surveys a requirement, and provides that Columbia share copies of the surveys and the survey results with the statutory advocates. This provision requires that the surveys and the survey results will be shared with the Statutory Advocates in a confidential manner, in recognition that the surveys and the results may be

considered competitive information. The surveys and the results will assist the Company and the Statutory Advocates in evaluating whether it is reasonable to extend the pilot program for two additional years, after the initial 3-year period. Moreover, the survey and the survey results will provide important information to the Company regarding customer attitudes about renewable energy products, desire to pay to support renewable energy products, and whether customers are becoming more educated about these products. As noted in its initial filing, Columbia seeks to position itself as a natural gas distribution company that offers steady, affordable, and sustainable energy options to its customers, while promoting efficient customer usage, assisting in strengthening the communities it serves, spurring economic development, and protecting and preserving shared natural resources. Columbia believes that to do so, the attitudes of its customers about renewable energy resources and willingness to pay for those resources, must be understood. These surveys provide Columbia the opportunity to learn more about its customers' attitudes on these matters.

E. INFORMATION TECHNOLOGY AND CONSUMER EDUCATION COST RECOVERY (NON-UNANIMOUS SETTLEMENT ¶ 25 & 26)

The Non-Unanimous Settlement, at paragraphs 25 and 26, addresses a contentious issue in this proceeding – the recovery of one-time infrastructure technology (“IT”) costs and the annual expense for consumer education related to the Green Path Rider. Initially, the Company planned to seek cost recover from the customer classes eligible to participate in the Green Path Rider, as part of a future base rate case, Columbia’s cost recovery proposal was not supported by I&E, OSBA or the OCA. In response to the feedback from the other parties concerning its cost recovery proposal, the Company modified its cost recovery proposal and now proposes that the these costs be recovered only from customers participating in the Green Path Rider pilot program, through the Green Path Rider rate itself. (Columbia St. No. 1-R, pp. 2 – 3.) Paragraphs 25 and 26 memorializes

Columbia's revised cost recovery proposal. Permitting Columbia to recover the costs relating to its IT programming and education campaign through the Green Path Rider rate itself is reasonable as it limits cost recovery to only those customers who choose to enroll in the pilot program, holding all other customers harmless.

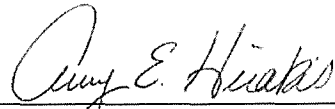
F. CARBON OFFSETS (NON-UNANIMOUS SETTLEMENT ¶¶ 27 & 28)

The Green Path Rider, if approved, would provide customers with an option to reduce their emissions related to their natural gas usage, by either 50% or 100%, through the purchase of RNG environmental attributes and carbon offsets. Under the Non-Unanimous Settlement, paragraph 27, Columbia has agreed that all carbon offsets purchased on behalf of customers will be generated from projects located in North America. This provision represents a compromise between Columbia and OSBA regarding the potential location of project sites to be used to generate the carbon offsets purchased by Columbia. Paragraph 28 requires Columbia to provide written verification of paragraph 27 to the Statutory Advocates within 14 days of finalizing the Non-Unanimous Settlement.

IV. CONCLUSION

The Non-Unanimous Settlement resolves all issues among the Joint Petitioners raised in this proceeding. For the reasons explained above, the resolution of the issues contained within the Settlement is in the public interest. The Non-Unanimous Settlement should be approved without modification.

Respectfully submitted,



Amy Hidakis, Esquire
Columbia Gas of Pennsylvania, Inc.
800 North 3rd Street, Suite 204
Harrisburg, PA 17102
Phone: 717-210-9625
E-mail: ahidakis@nisource.com

Theodore J. Gallagher, Esquire
Columbia Gas of Pennsylvania, Inc.
121 Champion Way, Suite 100
Canonsburg, PA 15317
Phone: 724-416-6355
E-mail: tjgallagher@nisource.com

Lindsay A. Berkstresser, Esquire
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101
Phone: 717-731-1970
E-mail: lberkstresser@postschell.com

Date: March 22, 2023

APPENDIX B

**Statement in Support of Non-Unanimous Settlement of
the Bureau of Investigation and Enforcement**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No.: R-2022-3032167
	:	
Columbia Gas of Pennsylvania, Inc.	:	

**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF
JOINT PETITION FOR NON-UNANIMOUS SETTLEMENT
OF RATE INVESTIGATION**

I. INTRODUCTION

The Bureau of Investigation and Enforcement ("I&E") of the Pennsylvania Public Utility Commission ("Commission"), by and through its Prosecutor Erika L. McLain, hereby submits that the terms and conditions of the foregoing *Joint Petition For Non-Unanimous Settlement* ("Joint Petition" or "Settlement") are in the public interest and represent a reasonable and equitable balance of the interests of Columbia Gas of Pennsylvania, Inc. ("Columbia" or "Company"), Columbia's customers, I&E and the Office of Small Business Advocate ("OSBA"). The parties have conducted extensive formal and informal discovery and have participated in numerous settlement conferences. The extensive and open discussions culminated in the attached Settlement Agreement. I&E requests approval of the Joint Petition based on I&E's determination that the Settlement Agreement meets all the legal and regulatory

standards necessary for approval. "The prime determinant in the consideration of a proposed Settlement is whether or not it is in the public interest."¹ The Commission has recognized that a settlement "reflects a compromise of the positions held by the parties of interest, which, arguably fosters and promotes the public interest."² As a product of negotiation and compromise, this Settlement Agreement reflects a compromise between the Settling Parties. Accordingly, the Bureau of Investigation and Enforcement believes that the terms and conditions of the Joint Petition are in the public interest.

II. STANDARDS FOR APPROVAL OF SETTLEMENT

A. Legal Landscape on Public Utilities

A business may acquire "public utility status" when that business is the sole organization that maintains the infrastructure utilized in providing an essential service to the public for compensation.³ As duplicating the vast and costly fixed physical infrastructure (e.g., substations, poles, lines, etc.) and allowing multiple businesses to provide the essential service would be wasteful, the public utility obtains a natural monopoly as the sole service provider in the extended geographic service territory.⁴ In order to protect consumers, the public utility's rates and services are regulated.⁵ Price regulation strives to replicate the results of effective competition.⁶

¹ *Pennsylvania Public Utility Commission v. Philadelphia Electric Company*, 60 PA PUC 1, 22 (1985).

² *Pennsylvania Public Utility Commission v. CS Water and Sewer Associates*, 74 PA PUC 767, 771 (1991).

³ James C. Bonbright, *Principles of Public Utility Rates*, Columbia University Press: New York (1961), at 3-14; 66 Pa. C.S. § 102.

⁴ *See id.*; 66 Pa. C.S. § 2802 (it is in the public interest for the distribution of electricity to be regulated as a natural monopoly by the Commission).

⁵ *See id.*; 66 Pa. C.S §§ 1301, 1501.

⁶ *See Cantor v. Detroit Edison*, 428 U.S. 579, 595-6, fn. 33 (1976).

As a public utility, a natural gas distribution company ("NGDC") shall provide just and reasonable rates to customers receiving service in the Commonwealth of Pennsylvania.⁷ A public utility is entitled to a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers and allows the utility an opportunity to obtain a reasonable rate of return on its investment.⁸ A public utility shall also provide safe and reliable service by furnishing and maintaining adequate facilities and reasonable services and by making the necessary improvements thereof.⁹

B. I&E's Role

Through its bureaus and offices, the Commission has the authority to take appropriate enforcement actions that are necessary to ensure compliance with the Public Utility Code and Commission regulations and orders.¹⁰ The Commission established I&E to serve as the prosecutory bureau to represent the public interest in ratemaking and utility service matters, and to enforce compliance with the Public Utility Code.¹¹ By representing the public interest in rate proceedings before the Commission, I&E works to balance the interest of customers, utilities, and the regulated community as a whole to ensure that a utility's rates are just, reasonable, and nondiscriminatory.¹²

⁷ 66 Pa. C.S. §§ 102, 1301; *Federal Power Comm 'n v. Hope Natural Gas Co.*, 320 U.S. 591, 602-603 (1944).

⁸ *City of Lancaster v. Pa. P.U.C.*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002); *see Hope*, 320 U.S. at 602-603.

⁹ 66 Pa. C.S. § 1501.

¹⁰ Act 129 of 2008, 66 Pa. C.S. § 308.2(a)(J1); 66 Pa. C.S. §§ 101 *et seq.*; 52 Pa. Code §§ 1.1 *et seq.*

¹¹ *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011).

¹² *See* 66 Pa. C.S. §§ 1301, 1304.

C. History of the Proceeding

On April 26, 2022, Columbia filed Supplement No. 343 to Tariff Gas Pa. P.U.C. No. 9 (“Supplement No. 343”) to become effective on January 1, 2023. Supplement No. 343 proposed the implementation of a five-year pilot program, called the Green Path Rider, that would allow Columbia’s customers an option to reduce some or all of their emissions related to their usage of natural gas. On the same day, Columbia filed a Motion to Consolidate Supplement No. 343 with its base rate case filed at Docket No. R-2022-3031211. On May 9, 2022, the Office of Consumer Advocate (“OCA”) filed an Answer in Opposition to Columbia’s Motion to Consolidate. On May 12, 2022, Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John Coogan (collectively, the “ALJs”) issued an Order denying Columbia’s Motion to Consolidate Supplement No. 343 with the base rate case at Docket No. R-2022-3031211.

Formal Complaints were filed by the OCA on May 9, 2022 and the Retail Energy Supply Association, Shipley Choice, LLC, and NRG Energy, Inc. (“RESA/NGS Parties”) on May 18, 2022. On May 19, 2022 the Bureau of Investigation and Enforcement (“I&E”) filed its Notice of Appearance and the Office of Small Business Advocate (“OSBA”) filed a Notice of Appearance, Notice of Intervention, Public Statement and Verification. Pennsylvania State University (“PSU”) filed a Petition to Intervene on June 14, 2022. On June 22, 2022, Columbia filed its Notice of Appearance and on June 30, 2022, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) filed a Petition to Intervene.

The Commission suspended Supplement No. 343 by operation of law until July 1, 2023 unless permitted by Commission Order to become effective at an earlier date and instituted an investigation into the lawfulness, justness, and reasonableness of the rates, rules and regulations contained in the proposed Supplement No. 343 pursuant to Section 1308(b) of the Public Utility Code.¹³

On June 22, 2022, the ALJs issued a Prehearing Conference Order scheduling a Prehearing Conference for Wednesday, July 6, 2022.

The ALJs memorialized the procedural schedule in Prehearing Order #1 issued July 8, 2022. In accordance with the procedural schedule adopted in the ALJs Prehearing Order #1, the parties exchanged direct, rebuttal, surrebuttal, and rejoinder testimony. I&E introduced the following statements of verified testimony:

- I&E Statement No. 1, the Direct Testimony of Ethan H. Cline; and
- I&E Statement No. 1-SR, the Surrebuttal Testimony of Ethan H. Cline.

An Evidentiary Hearing was conducted on February 15, 2023. During the hearing, cross-examination was conducted and the parties entered evidence into the record. On March 9, 2023, Counsel for Columbia notified the ALJs via electronic mail that a Settlement had been reached between the Company, I&E and the OSBA. On March 9, 2023, ALJ Coogan instructed the Parties to file the Settlement and Statements in Support on or by March 22, 2023 and any Comments regarding the Settlement are due by March 29, 2023.

¹³ 66 Pa. C.S. §1308(b).

III. SPECIFIC SETTLEMENT TERMS

A. Pilot Term and Renewal Option

As part of the Settlement, Columbia will implement the Green Path Rider as a three-year pilot program (September 1, 2023 – August 31, 2026) with the option to file for a two-year renewal (through to August 31, 2028) as a compromise to its as-filed five-year timeframe for the pilot program. In the event that Columbia decides to file to renew the pilot for the additional two years, the Company will inform the parties no later than January 30, 2026, and will file its request with the Commission no later than February 28, 2026. Parties agree to submit any comments or objections to the Company's request within 30 days, with the Company having the right to submit reply comments. The parties agree to allow the pilot program to continue operation until the Commission approves or denies Columbia's request for renewal.

I&E supports this term as being in the public interest because it shortens the pilot program by two years but still provides the Company adequate time to gauge the success of the program without having to commit to the full five-year term. The Settlement also provides the option for the Company to extend the pilot while allowing the Parties to submit any reply comments to the Company's request within 30 days. This term represents a compromise between the Settling Parties as the Company originally proposed a five-year timeframe for its Green Path Rider.

B. Annual Reporting

Columbia will file an annual Green Path Rider Report to the docket associated with this proceeding, on or before April 1 each year of the program. The report will

include the following:

- the number of customers enrolled in the program per month, including a breakdown of residential and commercial customers by participation level;
- the number of participants who involuntarily exited, number of program participants who re-enrolled, and number of participants who did not re-enroll;
- the number of renewable natural gas (“RNG”) environmental attributes and carbon offsets purchased for the program;
- the entit(ies) that certified and verified the RNG environmental attributes or carbon offset;
- the price and costs, paid by the Company on a bundled basis, of RNG environmental attributes and carbon offsets purchased for the program (if the bundled price changes during the program year, both the old price and the new price shall be clearly communicated in the annual report);
- the supply carbon offsets purchased for the program; this includes the State, Territory, or Province where projects are located, as well the category of each project generating credits sold to the Company for the GPR (*e.g.*, energy efficiency, landfill gas, forestry);
- information as to the origin of the RNG environmental attributes and carbon offsets purchased for the program; and
- summary of program activities, as well as a copy of any customer education materials sent to customers.

The information the Company will provide in the annual report will assist I&E in its review of the Green Path Rider. In testimony, I&E witness Cline recommended that the Company’s Green Path Rider be assessed, reviewed, and recovered through the Purchased Gas Cost (“PGC”) filings.¹⁴ Essentially, I&E’s recommendation was made to ensure that there was a process to review information related to the pilot program. The

¹⁴ I&E St. No. 1, p. 4.

Settlement addresses I&E's concerns because the information collected by the Company will be filed to the docket of the instant proceeding which would allow any interested party the ability to scrutinize the data. The Settlement requires the Company to provide the information listed above which will allow I&E to monitor costs, customer participation, and determine the effectiveness of the program which is in the public interest.

C. Consumer Education

Columbia, as part of the Settlement, agreed to provide consumer education materials prepared by the Company to the Statutory Advocates for review at least 30 days prior to the Company's desired launch date for the materials. The Company will then coordinate two roundtable virtual meetings with the Statutory Advocates to discuss language for the first set of consumer education materials and endeavor to come to a consensus on the language.

The Company will follow the same procedure for any subsequently developed consumer education materials except that the Company will coordinate a virtual meeting with the caveat that review and approval of subsequent consumer education materials can occur via email.

This term is within the public interest because it allows the Statutory Advocates a chance to review the consumer materials prior to distribution to consumers. Allowing the Statutory Advocates to have input and feedback on the materials will ensure that the information provided is accurate and communicated in a way for consumers to easily understand the parameters of the voluntary program.

D. Data Collection

Columbia will also provide surveys to the Green Path Rider participants at the time of enrollment and exit from the program, seeking customer feedback relating to decision to enroll/exit the program; feedback on rate/price; and opinion and understanding of carbon offsets, RNG environmental attributes, and RNG. Copies of the surveys conducted as well as survey results will be provided to the Statutory Advocates in a confidential manner at the same time the Company submits its Annual Report mentioned above.

I&E supports this term as being in the public interest because it will allow the Statutory Advocates an opportunity to analyze information regarding the voluntary program through the first-hand account of the participants and then gauge participants level of satisfaction of the Green Path Rider. This information can also be utilized by the Company and Statutory Advocates to help create the informative materials the Company plans to distribute explaining the program to consumers.

E. Informal Technology and Consumer Education Cost Recovery

Columbia agreed through Settlement that the one-time information technology (“IT”) costs and annual expense for consumer education will be recovered only from participating customers through the Green Path Rider rate. The Company will recover the one-time IT costs over the three-year period of the initial pilot program term. Furthermore, if the Company opts to extend the program for an additional 2 years, to the extent that the IT costs have not been fully recovered, the Company may continue to recover this cost from participating customers. In light of recovering costs from the

participating customers, the Company shall not seek to recover any portion of the one-time IT costs in base rates applicable to all customers.

At the outset of this proceeding, it was I&E's recommendation that Columbia's shareholders bear the costs of both the one-time IT costs and annual expense for the Green Path Rider.¹⁵ I&E believes the Settlement offers a reasonable compromise to its original position because the costs will only be passed to those customers that voluntarily opt-in to the program. I&E believes this is within the public interest because the costs will not be borne by all ratepayers and instead will be assumed by the customers knowingly entering into the Green Path Rider pilot.

F. Carbon Offsets

The Settlement also addresses carbon offsets. The carbon offsets purchased by the Company will be limited to projects located in North America. The Company shall supply written verification of the restriction to the Statutory Advocates within 14 days of finalizing this settlement. Written verification could include a draft copy of the confirmation sheet used by the offset supplier which documents the requirement that carbon offsets purchased will be restricted to North American offsets.

I&E has no specific comments on the Carbon Offsets terms contained in the Settlement.

IV. CONCLUSION

Based on I&E's analysis of the pilot program requested by Columbia Gas of Pennsylvania, Inc., acceptance of this proposed Joint Petition is in the public interest.

¹⁵ I&E St. No. 1, pp. 5-6.

Resolution of these issues by settlement rather than continued litigation will avoid the additional time and expense involved in formally pursuing all issues in this proceeding.

I&E further submits that acceptance of the foregoing Non-Unanimous Settlement Agreement will substantially limit the need to engage in additional litigation. The avoidance of further litigation expense by settlement of these issues in this proceeding best serves the interests of Columbia and its customers.

The Non-Unanimous Settlement Agreement is conditioned upon the Commission's approval of all terms and conditions contained therein and should the Commission fail to approve or otherwise modify the terms and conditions of the Settlement, the Joint Petition may be withdrawn by I&E or any of the signatories.

I&E's agreement to settle this case is made without any admission or prejudice to any position that I&E might adopt during subsequent litigation or in the continuation of this litigation in the event the Settlement is rejected by the Commission or otherwise properly withdrawn by any of the Joint Petitioners.

If the ALJs recommend that the Commission adopt the Non-Unanimous Settlement Agreement as proposed, I&E has agreed to waive the right to file Exceptions with respect to the agreed upon terms in the Settlement Petition. However, I&E has not waived its rights to file Exceptions with respect to any modifications to the terms and conditions of the Settlement Agreement, or any additional matters, that may be proposed by the presiding officer in his

Recommended Decision. I&E also reserves the right to file Reply Exceptions to any Exceptions that may be filed by any active party to this proceeding.

WHEREFORE, the Commission's Bureau of Investigation and Enforcement supports the *Joint Petition for Non-Unanimous Settlement* as being in the public interest and respectfully requests that Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John M. Coogan recommend, and the Commission subsequently approve, the foregoing Settlement Agreement, including all terms and conditions contained therein.

Respectfully submitted,



Erika L. McLain
Prosecutor
PA Attorney ID No. 320526

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17012
(717) 783-6170
ermclain@pa.gov

APPENDIX C

**Statement in Support of Non-Unanimous Settlement of
the Office of Small Business Advocate**

**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

**OFFICE OF SMALL BUSINESS ADVOCATE
STATEMENT IN SUPPORT OF THE
JOINT PETITION FOR NON-UNANIMOUS SETTLEMENT**

I. Introduction

The Small Business Advocate is authorized and directed to represent the interests of the small business consumers of utility services in the Commonwealth of Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50.

The Office of Small Business Advocate (“OSBA”) actively participated in the negotiations that led to the proposed settlement and is a signatory to the Joint Petition for Non-Uniform Settlement (“*Joint Petition FNUS*”). The OSBA submits this statement in support of the *Joint Petition FNUS*.

A. Statement of the Case

Columbia Gas of Pennsylvania, Inc. (“Columbia” or the “Company”) filed a tariff supplement that would create 5-year pilot program that the Company calls the Green Path Rider (“GPR”). The GPR would provide the Company’s residential and small commercial and industrial (“small C&I”) customers with an option to offset some or all of the greenhouse gas (“GHG”) emissions related to each customer’s natural gas usage.

This case is one of first impression for the Office of Administrative Law Judge (“ALJ”) and the Pennsylvania Public Utility Commission (“Commission”).

Columbia's GPR, as originally filed and as modified by subsequent Company testimony, suffered from three significant defects. First, the original filing indicated that Columbia would obtain carbon offsets from Anew Climate, LLC, but, by contract, would have to accept a mixed bag of carbon offsets culled from nearly every country on the planet.

Second, the GPR is an expensive option for Columbia's customers. The Company's customers could find cheaper programs for purchasing carbon offsets from other providers.

Third, Columbia had been unwilling to provide any customer educational materials for review by the Statutory Advocates or other parties. Educating Columbia's ratepayers will require significant effort, as the GPR is a new and untried programmatic concept, with a complex value proposition.

B. Procedural History

On April 26, 2022, Columbia filed Supplement No. 343 to Tariff Gas Pa. P.U.C. No. 9 ("Supplement No. 343") to become effective on January 1, 2023. Supplement No. 343 proposed the implementation of a 5-year pilot program which Columbia called the Green Path Rider.

On April 26, 2022, Columbia also filed a Motion to Consolidate Supplement No. 343 with the Company's then-current base rates case filed at Docket No. R-2022-3031211.

On May 12, 2022, Deputy Chief ALJ Christopher P. Pell and ALJ John Coogan issued an Order denying Columbia's Motion to Consolidate.

On May 19, 2022, the OSBA filed a Notice of Intervention.

On June 16, 2022, the Commission entered an Order instituting an investigation into Supplement No. 343, which was suspended by operation of law until July 1, 2023.

On July 6, 2022, a Prehearing Conference was held before ALJs Pell and Coogan.

On July 8, 2022, ALJs Pell and Coogan issued their Prehearing Order #1.

On December 1, 2022, the OSBA served the Direct Testimony, public and confidential versions, of Angela J. Vitulli.

On January 9, 2023, the OSBA served the Rebuttal Testimony of Angela J. Vitulli.

On February 6, 2023, the OSBA served the Surrebuttal Testimony, public and confidential versions, of Angela J. Vitulli.

On February 15, 2023, an Evidentiary Hearing was held before ALJs Pell and Coogan.

On February 16, 2023, the ALJs issued their Briefing Order.

The OSBA submits this Statement in Support of the *Joint Petition FNUS*.

C. Burden of Proof

Section 1301 of the Public Utility Code, 66 Pa. C.S. § 1301, provides that “every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.”

The burden of proof to establish the justness and reasonableness of every element of the utility’s rate increase rests solely upon the public utility. 66 Pa. C.S. § 315(a). “It is well-established that the evidence adduced by a utility to meet this burden must be substantial.”

Lower Frederick Township. v. Pa. PUC, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).

Although the burden of proof remains with the public utility throughout the rate proceeding, when a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Order entered July 17, 2008). “Section 315(a) of the Code, 66 Pa. C.S. § 315(a), applies since this is a proceeding on Commission Motion. However, after the utility establishes a prima facie case, the burden of going forward or the burden of persuasion shifts to the other

parties to rebut the prima facie case.” *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-00061931 (Order entered September 28, 2007), at 12.

II. The Joint Petition for Non-Unanimous Settlement

A. The Green Path Rider as Originally Filed by Columbia

1. Definitions

The GPR is an entirely new program, so the following terms are defined for ease of use and clarity.

Renewable Natural Gas (“RNG”) is a physical commodity that is purchased from a specified, identifiable source of supply, and injected into a natural gas distribution company’s distribution system. Examples of sources of RNG include landfill methane, methane from water treatment plants, and methane from livestock based anaerobic digestion systems. RNG has received significant positive attention recently, as it is chemically identical to conventional natural gas, but has a greatly reduced green-house gas (“GHG”) impact. Specifically, any source of RNG is capturing or recycling methane that otherwise would be released into the atmosphere.¹ The proposed GPR contains no RNG.

RNG Attributes are the “environmental attributes” of a specific, physical supply of RNG that is monetized and sold separately from the RNG supply. The RNG credits are handled by markets which are run by federal and state entities. These markets are well-respected for their high degree of transparency and credibility. When a utility or customer buys *RNG credits* from one of these markets, that customer is buying the environmental attributes of a specific *RNG supply*, and the value of those *RNG credits* is measured by how much that *RNG supply* reduced

¹ OSBA Statement No. 1, at 5.

GHG's emitted into the atmosphere when compared to conventional natural gas.² The proposed GPR contains 5% RNG credits.

Carbon offsets come in a variety of forms. A single "carbon offset" credit is broadly defined as a reduction of one metric ton of GHGs from a project that sequesters GHG emissions. Common examples of carbon-offset projects include forestry preservation projects, tree planting projects, or land use management projects. As OSBA witness Angela Vitulli testified citing publicly available market data, almost 80% of carbon offsets that were sold in 2021 were nature-based projects, with forestry projects being the most common. However, in contrast to RNG credits (which have markets that have strict rules set by state and federal governments), the carbon offset markets are unregulated, difficult to audit and certify that the promised benefits are, in fact, being realized. The proposed GPR contains 95% carbon offsets.

2. The Details of the Green Path Rider Proposal

The GPR, as originally proposed by Columbia, is a 5-year pilot program that would allow the Company's purchased-gas-cost ("PGC") sales customers to voluntarily offset either 50 percent or 100 percent of their GHG emissions that result from their natural gas consumption. The GPR proposes to allow customers to opt-in or opt-out of GPR service monthly, with notification to Columbia by the 15th of the preceding month.

Eligibility for the GPR would be limited to Columbia's PGC customers that consume less than 54,000 Dth of natural gas annually. Furthermore, "Choice" and transportation service customers who purchase supplies from competitive natural gas suppliers ("NGSs") also would not be eligible.

² OSBA Statement No. 1, at 5.

Specifically, the GPR proposes to offset GHG emissions caused by natural gas usage by purchasing carbon offsets for 95% of the GPR load and RNG “environmental attributes” credits for 5% of the GPR load. NiSource, the parent company of Columbia, has entered into a contract with Anew Climate, LLC (“Anew”) to supply the carbon offsets and RNG credits. The GPR service would be priced initially at an additional cost of \$3.00 per Dth of the offset gas consumption. Anew will update the price paid per Dth annually on January 1st.³

3. Renewal Natural Gas Attributes

The OSBA does not have concerns about the 5% of the GPR load what will be obtained by RNG environmental attributes. The RNG attributes, as set forth above, are verified GHG reduction benefits that automatically arise from RNG generation, and the attributes are traded in markets that are regulated by state governments as well as the federal government. Consequently, the RNG attributes markets are transparent, reliable, and functional, and provide measurable and consistent GHG benefits.⁴

The RNG environmental attributes comprise 5% of the GPR load.

4. Carbon Offset Credits

Ms. Vitulli has testified extensively regarding the problems with the carbon offset marketplace.⁵ There is the widespread problem that carbon offsets simply do not provide the promised carbon reductions.⁶

5. The Anew Contract for Carbon Offsets

³ OSBA Statement No. 1, at 4.

⁴ OSBA Statement No. 1-SR, at 1.

⁵ *See, e.g.*, OSBA Statement No. 1, at 6-8.

⁶ OSBA Statement No. 1-SR, at 1.

As originally filed, the contract that NiSource, and therefore Columbia, entered into with Anew was unacceptable to the OSBA.

Specifically, as set forth in OSBA Hearing Exhibit #1, Columbia was to take whatever carbon offsets Anew supplies. There was no choice of project type, verification process, or location of specific carbon offsets. Although Anew will be providing Columbia with monthly reports with *some* details of the carbon offsets supplied, Columbia must accept what is offered under their contract.

Furthermore, as Anew advertises on its website⁷, Anew provides carbon offsets from over four hundred projects around the world. To be clear, the carbon offsets which would have been supplied to Columbia from Anew *were not* guaranteed to be from Pennsylvania, from the United States, or even from North America. While it may be understandable that Columbia originally selected an inexpensive product from Anew, the Commission would have been faced with Columbia obtaining carbon offsets from Anew that could have come from *anywhere* on the globe, including China.

B. Green Path Rider Rate and Cost Recovery

1. GPR Rate

As set forth above, the Columbia proposes that the GPR service would initially be priced at an incremental cost of \$3.00 per Dth of a customer's "decarbonized" gas consumption. Note that this is the rate for the "100%" option. The "50%" option is \$1.50 per Dth. In addition, Anew will update its price annually on January 1st of every year. The potential scale of price hike in the annual "update" is unknown.⁸

⁷ www.anewclimate.com

⁸ OSBA Statement 1-R, at 1.

OSBA witness Vitulli performed a calculation to compare the initial GPR price to commonly available marketplace options for carbon offsets. Ms. Vitulli concluded that the GPR program will be a relatively expensive program for customers.⁹ However, the GPR is optional, and certain of Columbia's ratepayers may be very interested in this program.

2. Cost Recovery

Columbia originally intended that the Company would have a one-time capital cost for IT programming of \$186,000, and \$33,500 for annual O&M costs.¹⁰ As the GPR program is optional, the OSBA objected to the recovery of these costs in the manner originally proposed by Columbia.

C. Consumer Protections and Customer Education

1. Consumer Protections

Columbia's GPR offers three consumer protections. First, a ratepayer may opt-in or opt-out on a monthly basis. The only limitation is that the ratepayer must inform Columbia by the 15th of the previous month.

Second, Anew will provide monthly summaries of the GPR credits supplied to Columbia. Although the summaries will provide only basic information, presumably the Company will allow participating ratepayers access to this information.

Third, Anew will be updating its prices annually on January 1st. Columbia's ratepayers should be aware of this and be prepared to act accordingly.

⁹ OSBA Statement No. 1-R, at 3.

¹⁰ OSBA Statement No. 1, at 3.

Of course, the Green Path Rider is a voluntary program. Thus, the consumer protections are very basic. However, the OSBA believes that the monthly opt-in and opt-out option is critical for participating ratepayers.

2. Customer Education

Columbia has provided no customer education materials for the OSBA, or any other party, to review and comment upon. Columbia has stated that it will fully explain the GPR program to its ratepayers, if the GPR is approved by the Commission.¹¹

B. The Green Path Rider as Modified by the Joint Petition FNUS

1. Term of the Pilot Program

The *Joint Petition FNUS* proposes to reduce the term of the GPR Pilot Program from 5 years to 3 years. *Joint Petition FNUS*, Paragraph 20. The OSBA supports this reduction as it will allow all interested parties to review, comment, and challenge the operation of the GPR over a shorter time period. This is especially helpful as options to reduce GHG are rapidly evolving.

2. Reporting

The *Joint Petition FNUS* proposes detailed, annual reporting to the Commission and Statutory Advocates setting forth various metrics and operational details of how the GPR is performing. *Joint Petition FNUS*, Paragraph 21. Given that the GPR is a new program in the Commonwealth, this reporting will be critical for providing implementation information to all interested parties. Among other information, the annual report will provide metrics on the level of consumer interest in this type of program.

3. Consumer Education

¹¹ OSBA Statement No. 1-SR, at 5-6.

As set forth above, Columbia did not provide any consumer education materials to the parties during this proceeding. The *Joint Petition FNUS* commits Columbia to work with the Statutory Advocates to create consumer education materials if the Commission approves the GPR. *Joint Petition FNUS*, Paragraphs 22, 23. This is an acceptable resolution to this issue for the OSBA.

4. Cost Recovery

The *Joint Petition FNUS* proposes that the one-time information technology (“IT”) costs of approximately \$186,000 as well as the annual expense for consumer education will be recovered only from participating customers through the GPR rate. *Joint Petition FNUS*, Paragraphs 25, 26. The OSBA took this position in testimony and supports this as a just and reasonable resolution of this issue.

5. Origin of Carbon Offsets

The *Joint Petition FNUS* proposes, as follows:

The carbon offsets purchased by Columbia will be limited to projects located in North America.

Joint Petition FNUS, Paragraph 25.

This is the significant concession, obtained by the OSBA, which allowed this Office to support the *Joint Petition FNUS*. As set forth above, the inexpensive contract that NiSource signed with Anew did not allow NiSource, or Columbia, any say in where Anew obtained its carbon offsets. Geopolitics being what they are in early 2023, the OSBA did not want the Commission to have to explain why it was allowing Columbia to use carbon offsets from anywhere in the world. Moreover, domestic carbon offset projects in the forestry sector in particular pose far less risk of failure compared to their international counterparts.

Of course, by having Anew restrict the region for its carbon offsets, this will undoubtedly increase the cost charged to Columbia's participating customers. However, the OBSA submits that this is a necessary restriction to ensure the credibility of the program.

III. Conclusion

Wherefore, for the reasons set forth above, and as detailed in the *Joint Petition FNUS*, the OSBA respectfully requests that the ALJs and the Commission approve the *Joint Petition FNUS*.

Respectfully submitted,

/s/ Steven C. Gray

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

For:
NazAarah Sabree
Small Business Advocate

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

Dated: March 22, 2023