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	:	

RECOMMENDED DECISION

Before
Christopher P. Pell
Deputy Chief Administrative Law Judge

and

John M. Coogan
Administrative Law Judge

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I. INTRODUCTION

This Decision recommends that the Pennsylvania Public Utility Commission (Commission) approve the Joint Petition for Non-Unanimous Settlement filed in the above-captioned proceeding in its entirety without modification because it is in the public interest, consistent with the Public Utility Code, and supported by substantial evidence. If the Non-Unanimous Settlement is approved, Columbia Gas of Pennsylvania, Inc., shall be permitted to file a tariff supplement incorporating the terms of Supplement No. 343 to Tariff Gas Pa. P.U.C. No. 9, as modified by the Joint Petition for Non-Unanimous Settlement.

This decision also recommends that the Commission dismiss the Formal Complaints of (1) the Office of Consumer Advocate and (2) the Retail Energy Supply Association, Shipley Choice, LLC, and NRG Energy, Inc.

The end of the suspension period for Columbia's proposed tariff filing is July 1, 2023.

II. HISTORY OF THE PROCEEDING

On April 26, 2022, Columbia Gas of Pennsylvania, Inc. (Columbia Gas or Company), 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 proposes the implementation of a 5-year pilot program, called the Green Path Rider (GPR), that would allow customers an option to reduce some or all of their emissions related to their natural gas usage.

Also on April 26, 2022, Columbia Gas also filed a Motion to Consolidate Supplement No. 343 with its then pending base rate case filed at Docket No. R-2022-3031211, so that both filings could be litigated as part of Columbia Gas's base rate proceeding. The pending rate case was assigned to Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John M. Coogan.

On May 9, 2022, the Office of Consumer Advocate (OCA) filed a Public Statement and a Formal Complaint against Supplement No. 343. The Complaint was docketed at C-2022-3032404.

On May 12, 2022, we issued an Order denying Columbia Gas' Motion to Consolidate Supplement No. 343 with the then pending base rate case at Docket No. R-2022-3031211 because it would not provide an adequate process for review of Columbia Gas' proposed Green Path Rider.

On May 18, 2022, the Retail Energy Supply Association, Shipley Choice, LLC, and NRG Energy, Inc. (RESA/NGS Parties) filed a Formal Complaint against Supplement No. 343. The Complaint was docketed at C-2022-3032550.

On May 19, 2022, Erika L. McLain, Esquire, entered a Notice of Appearance on behalf of the Bureau of Investigation and Enforcement (I&E).

Also on May 19, 2022, Steven Gray, Esquire, entered a Notice of Appearance and filed a Notice of Intervention, Public Statement and Verification on behalf of the Office of Small Business Advocate (OSBA).

On June 14, 2022, Pennsylvania State University (PSU) filed a Petition to Intervene in this matter.

By Order entered on June 16, 2022, the Pennsylvania Public Utility Commission (Commission) instituted an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Supplement No. 343 to Tariff Gas Pa. P.U.C. No. 9. Pursuant to Section 1308(b) of the Public Utility Code, 66 Pa.C.S. § 1308(b), Supplement No. 343 to Tariff Gas Pa. P.U.C. No. 9 was suspended by operation of law until July 1, 2023, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness, and reasonableness of Columbia Gas's existing rates, rules, and regulations. The matter

was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

In accordance with the Commission's June 16, 2022, Order, the matter was assigned to Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John M. Coogan.

On June 30, 2022, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene in this proceeding.

A Call-in Telephonic Prehearing Conference was held on July 6, 2022. Counsel for Columbia Gas, I&E, OCA, OSBA, PSU, RESA/NGS Parties, and CAUSE-PA participated. During that Prehearing Conference, the parties agreed to a litigation schedule.

On July 15, 2022, we issued Prehearing Order #2 granting Columbia's Motion for Protective Order at Docket No. R-2022-3032167.

On December 1, 2022, the following parties served Direct Testimony: I&E (Direct Testimony of Ethan H. Cline, I&E St. No. 1); OCA (Direct Testimony of Barbara R. Alexander, OCA St. No. 1); OSBA (Direct Testimony of Angela Vitulli, OSBA St. No. 1 (Public and Confidential Versions)); PSU (Direct Testimony of James L. Crist, P.E., PSU St. No. 1 (Public and Confidential Versions)); and RESA/NGS (Direct Testimony of John F. Holtz, RESA/NGS St. No. 1).

On January 9, 2023, the following parties served Rebuttal Testimony: Columbia Gas (Rebuttal Testimonies of Erich A. Evans, Columbia St. No 1-R; and Mark Kempic, Columbia St. No. 4-R); OCA (Rebuttal Testimony of Barbara R. Alexander, OCA St. No. 1-R); and OSBA (Rebuttal Testimony of Angela Vitulli, OSBA St. No. 1-R).

On February 6, 2023, the following parties served Surrebuttal Testimony: Columbia Gas (Surrebuttal Testimony of Erich A. Evans, Columbia St. No. 1-SR); I&E

(Surrebuttal Testimony of Ethan H. Cline, I&E St. No. 1-SR); OCA (Surrebuttal Testimony of Barbara R. Alexander, OCA St. No. 1-SR); OSBA (Surrebuttal Testimony of Angela Vitulli, OSBA St. No. 1-S (Public and Confidential Versions)); PSU (Surrebuttal Testimony of James L. Crist, P.E., PSU St. No. 1-SR); and RESA/NGS (Surrebuttal Testimony of John F. Holtz, RESA/NGS St. No. 1-SR).

On February 13, 2023, Columbia served the following Rejoinder Testimonies: Erich A. Evans, Columbia St. No. 1-RJ; and Mark Kempic, Columbia St. No. 4-RJ.

The evidentiary hearing was held as scheduled on February 15, 2023. During the hearing, OSBA cross-examined two Columbia witness. All other witnesses were excused from appearing at the hearing since no parties requested to cross examine them, and also because we did not have questions for them. Columbia, OCA, I&E, OSBA, RESA/NGS Parties, and PSU each moved to have their witnesses' testimonies and exhibits entered into the record. As there were no objections, all parties' testimonies and exhibits were admitted into the record during the hearing.

III. FINDINGS OF FACT

1. Columbia Gas of Pennsylvania, Inc. is a regulated public utility company that provides natural gas distribution service to approximately 440,000 customers in 26 counties in the western and central portions of Pennsylvania, including the City of York located in York County.

2. On April 26, 2022, Columbia filed Supplement No. 343 to Columbia's Tariff – Gas Pa. P.U.C. No. 9, which proposes the implementation of a pilot program called the Green Path Rider. Columbia Gas Exhibit 1.

3. The Green Path Rider pilot program is a voluntary, fee based, opt-in program that allows customers an option to reduce some or all of their emissions related to their

natural gas usage through the purchase of renewable natural gas (RNG) environmental attributes and carbon offsets from a third-party supplier. Columbia Gas Exhibit 1., p. 2.; Columbia St. 1, p. 3.

4. Customers billed by Columbia under Rate RSS, Rate SGSS, Rate LGSS and Rate MLSS would be eligible to participate in the Green Path Rider pilot program, provided they are not in arrears, do not participate in the Customer Assistance Program (CAP), and their projected or actual annual usage is 540,000 therms or less. Also, customers purchasing their gas supply from a natural gas supplier will not be eligible to participate. Columbia St. 1, p. 4.

5. The Green Path Rider rate will be comprised of the negotiated price of RNG environmental attributes and carbon offsets procured from a third-party supplier. Columbia St. 2, p. 4.

6. The fixed price from the third-party supplier will be passed through to the customers electing to participate in the pilot program. Columbia St. 1, p. 6.

7. The Green Path Rider rate may be updated at the beginning of each year of the program. Columbia St. 2, p. 7.

8. Columbia will notify customers 30 days before the new rate takes effect and will update the tariff accordingly. Columbia St. 1, p. 8.

9. Participation in the pilot program will have no impact on the quality of service customers receive from Columbia, and only customers who volunteer to enroll in the pilot program will have their bills impacted. Columbia Gas Exhibit 1, p. 5.

10. Columbia's reasons for proposing this pilot program are two-fold: first, to educate natural gas customers that they have options to reduce greenhouse gas emissions which do not require changes to their natural gas appliances; and second, to track and evaluate

enrollment of residential and commercial customers in a program where customers affirmatively choose to pay an added fee to reduce their carbon footprint. Columbia Statement 1-R, p. 6.

11. Columbia anticipates incurring approximately $186,000 in one-time capital costs for IT programming, and approximately $33,500 in annual O&M expense for customer education associated with the Green Path Rider. Columbia Gas Exhibit 1, p. 6; Columbia St. 1, p. 7.

12. The Company proposes that the one-time IT programming costs and annual education costs be recovered only from customers participating in the Green Path Rider pilot program, through the Green Path Rider rate itself. Columbia St. 1-R, pp. 2-3.

13. Customers enrolled in CAP are not eligible to enroll in the Green Path Rider pilot program. Columbia Gas Exhibit 1, p. 22 (Green Path Rider tariff page).

14. Customers who are in arrears are excluded from enrolling in the pilot program. (Columbia Gas Exhibit 1, p. 22 (Green Path Rider tariff page).)

15. Customers will be removed from the Green Path Rider pilot program if they are in arrears for a period of three billing cycles. Columbia Gas Exhibit 1, p. 22 (Green Path Rider tariff page).

16. Columbia will not terminate service for non-payment of the Green Path Rider portion of the bill. Columbia Gas Exhibit 1, p. 22 (Green Path Rider tariff page).

17. Columbia will provide questions and answers on their website regarding the Green Path Rider along with direct email and some other social media communications. Columbia St. No. 1, pp. 6-7.

18. Columbia designed the pilot program to use a combination of RNG environmental attributes and carbon offsets due to the high price of RNG. Columbia St. 1-R, p. 18.

19. Columbia will post information on the RNG environmental attributes and carbon offsets purchased on behalf of its customers participating in the Green Path Rider pilot program on its Company's website, including the source location. Columbia St. 1-R, pp. 4-5, 24.

IV. LEGAL STANDARD/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 proposed rate 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 Twp. v. Pa. Pub. Util. Comm'n*, 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. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket No. R-00072711 (Opinion and 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. Pub. Util. Comm'n v. Phila. Gas Works*, Docket No. R-00061931 at 12 (Opinion and Order entered Sept. 28, 2007).

Additionally, any finding of fact necessary to support an adjudication of the Commission must be based on substantial evidence. *Met-Ed Indus. Users Group v. Pa. Pub. Util. Comm'n*, 960 A.2d 189 (Pa. Cmwlth. 2008) (*citing* 2 Pa.C.S. § 704). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm'n,* 942 A.2d 274 (Pa. Cmwlth. 2008). Although substantial evidence must be "more than a scintilla and must do more than create a suspicion of the existence of the fact to be established," *Kyu Son Yi v. State Bd. of Vet. Med*., 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted), the "presence of conflicting evidence in the record does not mean that substantial evidence is lacking." *Allied Mech. & Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case, and at the same time, conserve precious administrative resources. 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. Pub. Util. Comm'n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861 (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. Windstream Pa., LLC*, Docket No. M-2012-2227108 (Opinion and Order entered Sept. 27, 2012); *Pa. Pub. Util. Comm'n v. C.S. Water & Sewer Assoc.*, Docket No. R-00881147 (Opinion and Order entered July 22, 1991).

The Commission's policy permits parties to enter "partial" or "non-unanimous" settlements. *See* 52 Pa. Code § 69.401. *See also* 52 Pa. Code §§ 5.232, 69.406. As with full settlements, partial settlements, whether involving a partial settlement of issues or a partial settlement of the parties involved (non-unanimous), must be reasonable and in the public interest. *See Pa. Pub. Util. Comm'n v. City of Bethlehem – Water Dep't*, Docket No. R-2020-3020256 (Apr. 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 simply because they are non-unanimous. *See, e.g. City of Bethlehem Water*; *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket No. R-2022-3031211 (Opinion and Order entered Dec. 8, 2022) (*Columbia Gas*); *Pa. Pub. Util. Comm'n v. Pike Cnty. Light & Power Co. – Elec.*, Docket No. R-2020-3022135 (Opinion and Order entered July 21, 2021) (*Pike County*); *Pa. Pub. Util. Comm'n v. Pa.-Am. Water Co.*, Docket No. R-2020-3019369 (Opinion and Order entered Feb. 25, 2021) (*Pennsylvania-American Water Co.*).

The standards for approving the terms of non-unanimous settlements 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, in the public interest, and in conformity with the Commission's orders and regulations. *See* 66 Pa C.S. § 1301; *City of Bethlehem Water; Columbia Gas*; *Pike County; Pennsylvania-American Water Co.*

V. GREEN PATH RIDER PROGRAM DESIGN

A. Columbia's Position

Columbia states the Green Path Rider (GPR) is being proposed as a voluntary pilot program and is intended to provide Columbia customers with the option of paying a fee to offset the carbon emissions related to their natural gas usage by either 50% or by 100%.[1] Customers billed by Columbia under Rate RSS, Rate SGSS, Rate LGSS and Rate MLSS[2] would be eligible to participate in the GPR pilot program, provided they are not in arrears, do not participate in the Company's Customer Assistance Program (CAP),[3] and their projected or actual

[1] Columbia St. 1, p. 3.

[2] These rate classes represent the following customer classes: residential, commercial and industrial (with annual usage of 540,000 therms or less).

[3] Columbia's CAP is a universal service program that provides qualifying low-income affordable payment options and arrearage forgiveness.

annual usage is 540,000 therms or less. Also, customers purchasing their gas supply from a natural gas supplier will not be eligible to participate.[4] Columbia MB at 6.

The GPR rate will be comprised of the negotiated price of RNG environmental attributes and carbon offsets procured from a third-party supplier.[5] RNG environmental attributes represent the carbon reduction associated with RNG,[6] and is a product that is detached from the RNG and marketed as a standalone attribute. A carbon offset is a reduction in emissions of carbon dioxide or other greenhouse gases made in order to compensate for emissions made elsewhere.[7] Carbon offsets can be derived from several different sources and are grouped together into categories such as renewable energy development, landfill methane avoidance, energy efficiency, and forestry.[8] Columbia MB at 6-7.

A fixed price for the RNG environmental attributes and carbon offsets has been negotiated, and this fixed price is what will be passed through to the customers electing to participate in the pilot program.[9] At the end of each month, Columbia will calculate the actual usage for participating customers and send this number to the third-party supplier.[10] The third-party supplier will then use this information to determine how many RNG environmental attributes and carbon offsets will be needed to satisfy the 5%/95% mix required for the program.[11] In other words, the RNG environmental attributes and carbon offsets purchased by the Company will equal the volumes used by the customers participating in the pilot program.

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[4] Columbia St. 1, p. 4.

[5] Columbia St. 2, p. 4.

[6] RNG is a carbon-neutral and sustainable alternative to geologic natural gas that is produced from organic waste from sources such as landfills, wastewater plants, and farms. The Company is not purchasing actual supply; rather, Columbia is purchasing the required environmental attributes for this program associated with physical gas. Columbia St. 2, p. 6.

[7] Columbia St. 2, p. 4.

[8] Columbia St. 2, p. 4.

[9] Columbia St. 1, p. 6.

[10] Columbia St. 2, p. 6.

[11] Columbia St. 2, p. 6.

Columbia asserts this avoids it having to estimate volumes and allows the Company to only purchase what is needed to supply customers who have opted into the pilot program. Customers who enroll in the GPR pilot program will then be allocated the RNG environmental attributes and carbon offsets that match their selection of either a 50% reduction or a 100% reduction of their natural gas emissions.[12] Columbia MB at 7.

Columbia states that, per the agreement with the third-party supplier, once the third-party supplier determines the amount of RNG environmental attributes and carbon offsets purchased by the Company, they will secure the RNG environmental attributes/carbon offsets, and move them into a Midwest Renewable Energy Tracking System (M-RETS) account and the appropriate carbon registry account, and retire them immediately. The third-party supplier will then provide Columbia with the retirement verification to demonstrate compliance with their contract obligations.[13] Columbia MB at 8.

The GPR proposed tariff page provides that Columbia will file an update to the rider annually.[14] This annual update could include a new fixed price as agreed upon with the supplier.[15] Columbia estimates that 1,100 residential and 375 commercial customers will participate in the pilot program.[16] Columbia asserts participation in the pilot program will have no impact on the quality of service customers receive from Columbia, and only customers who volunteer to enroll in the pilot program will have their bills impacted.[17] Columbia MB at 8.

Columbia explains its reasons for proposing this pilot program are two-fold: first, to educate natural gas customers that they have options to reduce greenhouse gas emissions which do not require changes to their natural gas appliances; and second, to track and evaluate

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[12] Columbia St. 2, p. 7.

[13] Columbia St. 2, pp. 6-7.

[14] Columbia Gas Exhibit 1, Attachment A.

[15] Columbia St. 1, p .6.

[16] Columbia Gas Exhibit 1, p. 4.

[17] Columbia Gas Exhibit 1, p. 5.

enrollment of residential and commercial customers in a program where customers affirmatively choose to pay an added fee to reduce their carbon footprint.[18] The Company conducted customer surveys in 2018 and 2022, and while those surveys revealed that 71% and 83% of survey respondents, respectively, favored customers be given the choice of using renewable energy options, only 15.7% and 19% of those survey respondents were even familiar with RNG.[19] The Company plans to conduct other surveys throughout the term of the pilot program related to participation in the pilot program and interest in renewable energy options for natural gas consumers, while simultaneously providing information about renewable energy options.[20] Columbia states that the forthcoming survey results, along with the customer participation data, will be used to determine if the pilot is successful in educating customers about carbon reduction options, as well as gauge customer interest in paying for this type of program.[21] Columbia MB at 8-9.

Columbia notes OCA witness Alexander testified that the GPR should not be considered a pilot program because the Company had not provided its proposed evaluation criteria for the pilot program,[22] and in response to the Company providing its proposed criteria to the parties as part of rebuttal testimony, witness Alexander responded by stating that she would not be addressing Columbia's proposed criteria since she does not recommend that this pilot program be approved.[23] The Company submits that its proposed plan to educate, survey and track participation throughout the duration of the pilot program will provide the Company with information on customer interest in renewable energy options, interest in paying for such options, how pricing impacts participation rates, whether its educational materials are reaching its customers and impacting their views and level of interest in renewable energy options. Columbia MB at 9.

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[18] Columbia St. 1-R, p. 6.

[19] Columbia Gas Exhibit 1, pp. 26-35 (survey results); Columbia St. 1, p. 5.

[20] Columbia St. 1, p. 6.

[21] Columbia St. 1, p. 6.

[22] OCA St. 1, p. 7.

[23] OCA St. 1-R, p.7.

In its reply brief, Columbia notes that Columbia witness Evans addressed the metrics that will be assessed if the GPR pilot program is approved, and these metrics include enrollment levels for both residential and commercial customers, the tier selected (i.e., 50% or 100% reduction), attrition level and volumes, and whether customer interest in and knowledge of renewable energy resources increases as a result of the educational component of the GPR.[24] Columbia states that, in light of OCA's witness acknowledging in testimony that Columbia did indeed propose metrics, it is clear that the OCA's argument that Columbia failed to propose metrics to assess the pilot program is without merit. Columbia also notes that the Non-Unanimous Settlement, at paragraphs 21, requires Columbia to file an annual report on or before April 1 of each year of the pilot program, and sets forth a detailed list of information that the Company must collect and include in the annual report. Columbia has also agreed, at paragraph 24 of the Non-Unanimous Settlement: to provide surveys to participating customers at the time of enrollment and exit from the program, seeking customer feedback relating to the 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. Columbia RB at 4.

Regarding the OCA's claim that Columbia is intentionally misleading customers and that Columbia will not know the source of the RNG environmental attributes being purchased, Columbia states this claim is simply wrong. Columbia witness Evans established early in this proceeding, in his rebuttal testimony, that Columbia will receive the source location of both the RNG environmental attributes and carbon offsets purchased, and that Columbia plans to make this information available to its customers by posting it on its website.[25] Columbia states Witness Evans clarified this again in his cross-examination testimony,[26] and his testimony is supported by OSBA Hearing Exhibit No. 2 Confidential, which was entered into the record during the February 15, 2023 evidentiary hearing. As to OCA's claim that Columbia's

[24] Columbia St. 1-R, p. 6.

[25] Columbia St. 1-R, pp. 4-5, 24.

[26] Tr. 73, lines 5-18 (confidential).

agreement with the third-party supplier of the carbon offsets does not limit the carbon offsets to projects within Pennsylvania or the United States, Columbia admits this is true; however, Columbia asserts that, if carbon offsets are used correctly and come from verifiable sources, they can be used to reduce greenhouse gas emissions regardless of geography.[27] Columbia notes that the Joint Petition for Non-Unanimous Settlement (JPNUS or Settlement), at paragraph 27, if approved, requires that the RNG environmental attributes and carbon offsets come from projects in North America. Columbia RB at 2-3.

Regarding the OCA's contention that the GPR, which is a program submitted for approval by other NiSource companies in their respective jurisdictions, does not differentiate between the regulatory policies of each of these states, Columbia states this is not correct. Columbia witness Evans testified that the Columbia Gas of Pennsylvania regulatory and legal teams spent months refining this program so that the program met the regulatory policies of the Commonwealth. The GPR tariff page reflects some of these refinements. Columbia asserts that, to the extent that the programs do not differentiate between states that have adopted restructuring, this is because this distinction does not impact the program design.[28]

B. I&E's Position

I&E did not file a main brief or reply brief addressing the GPR program design. As explained below, I&E was a signatory to the JPNUS and provided a statement in support of the JPNUS.

C. OCA's Position

The OCA asserts that the Commission should reject the Company's proposed GPR program. The OCA states its witness Barbara R. Alexander reviewed the design of the

[27] Columbia St. 1-R, p. 18.

[28] Columbia St. 1-RJ, p. 3.

proposed GPR pilot and found it defective and flawed.[29] The OCA also argues that changes proposed by the Company, I&E, and the RESA/NGS Parties in the course of the proceeding – singly or collectively – are not adequate to overcome the design flaws of a proposed pilot to implement an optional non-basic service under a natural gas distribution service tariff.[30] OCA MB at 7.

The OCA characterizes Columbia's proposal as a five-year pilot program to offer sales service customers a "rider" to pay an additional fee for RNG attributes and carbon offsets.[31] This offer would be made in two tiers, to offset carbon emissions by 50% or 100% with a price for each option that will change annually based on the contractual provisions between NiSource Corporate Services Co. (NCSC) and the supplier for RNG attributes and carbon offsets.[32] The offer will be available to residential, commercial, and industrial sales service customers (except for very high usage customers).[33] Columbia proposed to exclude certain customers from enrollment in this tariff: CAP low-income customers; customers in arrears; and those enrolled in the CHOICE program.[34] OCA MB at 7-8.

While the OCA understands and applauds the laudable goal of promoting a green and healthy environment, the OCA argues the GPR program is not a reasonable approach and would establish a bad precedent for Commission-approved green programs in Pennsylvania. The contract in effect between NCSC and the supplier will provide certifications that 5% of the

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[29] OCA St. 1, p. 15; OCA St. 1-SR, p. 1.

[30] OCA St. 1, pp. 4-15; OCA St. 1-R, p. 4; OCA St. 1-SR, pp. 1-9.

[31] OCA St. 1, p. 2. While RNG is a product that results from capturing methane or natural gas waste from landfills, manure, and other waste streams, the OCA asserts Columbia's program does not deliver RNG to its customers. Instead, the Company proposes to purchase the "environmental attributes" associated with the physical gas delivered. *See* OCA St. 1, p. 3. The OCA also states that a carbon offset represents the purchase of a certificate that documents a specific level of carbon reduction. Carbon offsets can reflect landfill gas, forestry, wetlands renewal, and other sources of activities that promise to offset otherwise applicable carbon emissions. *See* OCA St. 1, pp. 3-4.

[32] *See* OSBA Hearing Exhibit 1 (Confidential).

[33] OCA St. 1, p. 2.

[34] OCA St. 1, p. 2.

requested load will comply with RNG attribute criteria and 95% of the load will be met with carbon offsets.[35] OCA MB at 8.

OCA witness Alexander noted that the impact of RNG attributes in this program is relatively insignificant, and even then there is no actual RNG delivered to customers, it is merely the environmental attributes of the RNG that customers are buying.[36] The OCA asserts this is a very difficult distinction to explain to consumers especially when Columbia has not prepared any educational materials in preparation for this program. The OCA argues Columbia cannot state with any certainty the source of the RNG environmental attributes for the GPR program. Columbia stated in testimony that "[a]t this time Columbia does not know the source of RNG that will be used to supply the Green Path Rider."[37] Thus, the OCA concludes, notwithstanding the fact that it cannot say with any certainty that any reduction in carbon emissions will happen in Pennsylvania, Columbia, nevertheless, planned to market this program as reducing carbon emissions to its Pennsylvania customers.[38] OCA MB at 8-9.

The OCA further argues there is no basis in the record for concluding that this program affects the emissions associated with the supply portfolio serving Columbia customers.[39] The OCA notes Columbia agreed that the contractual provision of carbon offsets is not limited to carbon offsets from Pennsylvania or even within the United States.[40] Yet, as constructed, the OCA states that this program would be promoted as allowing Pennsylvania consumers to offset their carbon emissions.[41] As a result, the OCA states that it is potentially deceptive and misleading for Columbia to market this program as reducing any carbon footprint for its Pennsylvania customers since there is no way for Columbia or any consumer to know for

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35 OCA St. 1, p. 5.

36 OCA St. 1, p. 5.

37 OCA St. 1, p. 6 *citing* Columbia Response to OCA-I-8.

38 OCA St. 1, p. 6.

39 OCA St. 1, p. 4-5.

40 OCA St. 1, p. 6.

41 OCA St. 1, p. 4, 6.

sure that the natural gas supply coming into the homes and businesses reflects any impact from the purchased carbon emission reductions sold in this contract. OCA MB at 9; *see also* OCA RB at 2-3.

The OCA asserts that, while carbon emissions may be reduced or offset somewhere, it is not appropriate for Columbia to market an on-bill program for its customers under a tariff that has the very real potential to confuse and mislead consumers. Simply put, the contract entered into by Columbia's affiliate NCSC does not link the purchases of RNG attributes or carbon offsets to any impact on the natural gas service delivered by Columbia to its Pennsylvania customers.[42] Purchasing RNG attributes or carbon offsets in other jurisdictions and for non-gas related products that do not provide any of the natural gas service delivered to Pennsylvania customers is not in the public interest for Pennsylvania consumers as a tariffed rider. OCA MB at 9.

The OCA avers that, while touted in the proposed rate filing and Columbia's testimony as a pilot program, Columbia has proposed no actionable metrics to measure in order to determine whether the program is successful.[43] The OCA asserts that a program that a utility wants to try, does not make it a pilot; instead it is an untested and unknown risk for consumers. Moreover, in this case, the length of the so-called pilot was based on the term of the contract agreed to by Columbia's corporate affiliate NCSC and the supplier.[44] It was not based on any connection to the purpose of the pilot.[45] OCA MB at 9-10.

The OCA argues that Columbia has not proposed any criteria for the analysis of the program or identified a specific set of data that will be evaluated during or after the term of the pilot.[46] The term "pilot" as reflected in this filing is a misnomer as the parties have not been

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42 OCA St. 1-SR, p. 5.

43 *See*, Columbia Gas Exhibit 1, Reply to 52 Pa. Code § 53.52(a)(1), Columbia St. 1, p. 4.

44 OCA St. 1, p. 7.

45 OCA St. 1, p. 4.

46 OCA St. 1, p. 7.

informed as to what information is being gathered to determine the success/failure of a program over the pilot program's lifetime. OCA MB at 10; *see also* OCA RB at 3.[47]

The OCA notes that the GPR program being proposed in Pennsylvania was initiated by Columbia's corporate affiliate, NCSC.[48] The design of the program is entirely supported by NCSC employee testimony.[49] The contract which forms the foundation of the program reflects a corporate affiliate obligation by NCSC, as opposed to a Columbia Gas of Pennsylvania obligation.[50] While none of these is fatal per se, the OCA argues that it is clear based on the record that this program is driven by corporate goals of Columbia's parent company rather than either a need or demand by Pennsylvania consumers. OCA MB at 10.

Furthermore, the OCA asserts that the GPR has been proposed in all of NiSource's affiliate jurisdictions and the Pennsylvania petition does not differentiate between the regulatory policies of any state where it has been proposed (Indiana, Virginia, Maryland, and Pennsylvania).[51] The program has been proposed both in jurisdictions that have adopted restructuring (Maryland and Pennsylvania) and in jurisdictions where the Columbia affiliate is regulated for distribution and natural gas supply service with an unbundled bill (Indiana, and Virginia).[52] The policy issues associated with these distinctions between restructured and vertically integrated states are not recognized by Columbia's proposal in Pennsylvania.[53] The OCA argues that this proposal in Pennsylvania is properly viewed as an optional natural gas supply service or product and the program as proposed is not linked to any actual reduction in

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[47] The OCA notes that Columbia states in its Main Brief that the Company provided proposed criteria as part of rebuttal testimony but does not provide a cite or a state the proposed criteria. *See* Columbia MB, p. 9. The OCA asserts that the Company's rebuttal testimony, however, notes that the criteria to analyze the pilot is through unidentified surveys and by tracking "[t]he number of sales customers enrolling in the program, the tier selected, attrition and volumes." Columbia St. 1-R, p. 6.

[48] OCA St. 1-SR, p. 2.

[49] OCA St. 1-SR, p. 2.

[50] OCA St. 1-SR, p. 2.

[51] OCA St. 1-SR, p. 2.

[52] OCA St. 1-SR, p. 2-3.

[53] OCA St. 1-SR, p. 3.

carbon emissions associated with the natural gas supply service delivered to Pennsylvania customers.[54] OCA MB at 10-11.

For this type of novel pilot program, a pilot plan indicating which data is necessary to collect is reasonable and necessary before the Commission can make any determination on the prudency or reasonableness of the tariff. The OCA states that the lack of any pilot plan or actionable metrics on the other hand, is concerning. Absent very specific, articulable goals and outcomes this program is not a pilot. The OCA concludes that the proposed program lacks accountability and, as such, the Commission should not permit Columbia, a regulated distribution utility, to offer it to its customers. OCA MB at 11; *see also* OCA RB at 4.

D. OSBA's Position

The OSBA did not file a main brief or reply brief addressing the GPR program design. As explained below, the OSBA was a signatory to the JPNUS and provided a statement in support of the JPNUS.

E. RESA/NGS Parties' Position

The RESA/NGS Parties state there are multiple reasons why the Commission should reject Columbia's filing, beginning with the fact that it is a non-basic product proposed to be sold through Columbia's regulated services tariff. The RESA/NGS Parties argue it is bad policy to allow utilities to include non-basic services in their tariffs, because the service/product is not jurisdictional, not subject to Commission oversight, and not subject to the Commission complaint process. Establishing such non-basic products in the tariff also can give the impression that the product is superior in quality because the utility is billing for it and suggest that costs of the product/service could be recovered through distribution rates; when indeed, the income and expenses for such non-basic, competitive services are plainly required to be

[54] OCA St. 1-SR, p. 4.

recovered outside of the regulated rate structure.[55] In short, the RESA/NGS Parties argue, the intention to provide a non-basic product as a tariffed item leads to two additional problems: 1) attempted cost recovery through regulated rates; and, 2) the related violation of the Commission's Standards of Conduct. Columbia offering the GPR product as a tariffed service appears to be an attempt to shield its offering from the Commission's Standards of Conduct but has the opposite effect. Instead, the RESA/NGS Parties assert, the GPR Service is subject to the Standards of Conduct. RESA/NGS Parties' MB at 7.

The RESA/NGS Parties characterize the GPR as a proposed addition to Columbia's tariff that would authorize Columbia to sell a new, non-commodity, value-added product to its non-shopping, non-CAP, non-flex customers in rate classes RSS, SGSS, LGSS or MLSS, whose annual usage is less than 540,000 therms per year.[56] The RESA/NGS Parties state they have a number of concerns with this proposal. First, the market research that Columbia claims supports the need for it to offer the GPR was conducted by asking questions exclusively concerning RNG, not RNG attributes and not carbon offsets. Without addressing the benefits of either of these products, the RESA/NGS Parties' argue Columbia has not established that its default service customers, particularly commercial customers, are prepared to spend substantial sums to purchase RNG attributes or carbon offset products from Columbia. The RESA/NGS Parties state Columbia's so-called "market research" carries no weight as it was geared solely to RNG which is a physical product, and which is very different from the attribute products that Columbia has proposed in this proceeding.[57] So apart from its desire to do so, Columbia has provided no evidence to support why a utility should be permitted to provide a non-basic product as a tariffed product. RESA/NGS Parties' MB at 8.

The RESA/NGS Parties' state that Columbia has proposed a product that is predominantly carbon offsets (95%) and yet even its presentation to the Commission in the form

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55 52 Pa. Code § 62.142(12).

56 RESA/NGS Parties' St. 1, p. 3:8-12.

57 RESA/NGS Parties' St. 1, p. 3:8-12.

of a proposed tariff, represents the product as being RNG.[58] The concern is that Columbia's intention appears to be to lead customers to the conclusion, by including some small increment of RNG attributes, that what they are buying is actually RNG, i.e., "green gas", when instead they will be purchasing mere offsets, that could be from carbon offsets or RNG produced literally anywhere in the world.[59] If Columbia provides such a product (which the RESA/NGS Parties argue it should not be permitted to do), it should be required to thoroughly and prominently explain what customers will be buying, with no reference to RNG. RESA/NGS MB at 8-9; *see also* RESA/NGS RB at 2-3.

F. PSU's Position

PSU did not file a main brief or reply brief addressing the GPR program design.

G. CAUSE-PA's Position

CAUSE-PA did not file a main brief. However, in its reply brief, CAUSE-PA states that Columbia's GPR program design creates a distinct risk that low income customers will be charged extra cost for enrollment in a program that will produce little to no actual, verifiable benefit to the consumer, their community, or the environment.[60] CAUSE-PA states there is scant evidence that the program will meaningfully advance clean energy goals for Pennsylvanians and the program relies heavily on carbon offsets from anywhere in the world – with no clear lines of oversight or verification. CAUSE-PA RB at 3-4.

CAUSE-PA states Columbia proposed its GPR as a voluntary program with a stated intention to "provide Columbia customers with the option of paying a fee to offset the carbon emissions related to their natural gas usage by either 50% or by 100%."[61] Columbia

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58 RESA/NGS Parties' St. 1-SR, p. 7:1-11.

59 OSBA St. 1, lines 120—132.

60 *See* OCA St. 1, p. 5-6.

61 Columbia MB, p. 6.

proposes to achieve these carbon reductions by purchasing RNG environmental attributes and carbon offsets through a third-party supplier equal to the volumes used by the customers participating in the pilot program. Columbia proposes that customers who enroll in the GPR pilot program would be allocated the RNG environmental attributes and carbon offsets that match their selection of either a 50% reduction or a 100% reduction of their natural gas emissions. However, CAUSE-PA notes, Columbia's contract with the supplier will only provide certifications that 5% of the requested load will comply with RNG attribute criteria and 95% of the load will be met with carbon offsets.[62]

CAUSE-PA states that RNG refers to purchasing of physical supply of "renewable" gas, such as methane from landfills, water treatment, or livestock, which is collected, treated, and injected into a gas distribution system.[63] "RNG credits" are the environmental attributes of RNG, including attributes related to greenhouse gas reductions, which can be monetized and sold separately from RNG supply.[64] Again, CAUSE-PA notes, just 5% of the GPR product would go toward the purchase of RNG credits.[65] "Carbon offsets," which make up 95% of the GPR product, can be generated by any project that sequesters greenhouse gas emissions, including nature-based projects, such as forestry preservation projects, tree planting projects, or land use management projects.[66] Nature-based carbon offset projects, which dominate the carbon offset markets, have no connection to renewable fuels.[67] According to OSBA witness Angela Vitulli, "*The carbon offset market is considered to be a broken market by experts due to lack of transparency and failure of verifiers to ensure consistent and standardized carbon reduction benefits.*"[68] CAUSE-PA RB at 4-5.

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62 OCA St. 1, p. 5.

63 OCA St. 1, p. 3; OSBA St. 1, p. 5.

64 OSBA St. 1, p. 5.

65 OCA St. 1, p. 7.

66 OCA St. 1, pp. 3-4; OSBA St. 1, p. 5.

67 *Id.*

68 *Id*. at 6 (emphasis in original).

CAUSE-PA notes that OSBA witness Vitulli explained that Columbia's proposal amounts to greenwashing[69] by framing the program as an RNG program when customers are, for the most part, paying for carbon offsets.[70] She explained that whereas other, similar programs are transparent about the nature and source of their offsets, and selected offset projects are in the same state, "Columbia's parent company NiSource signed a black box contract for carbon offsets that will not allow Columbia Gas or ratepayers to have critical information on projects generating offsets, such as project type, location, and any indicators of quality."[71] Thus, CAUSE-PA claims, Columbia's claims that enrollment in the GPR would allow Columbia customers to lower their emissions is nothing more than greenwashing as the program is wholly speculative and, in fact, is unlikely to reduce carbon emissions in Pennsylvania.[72] CAUSE-PA states that Columbia has failed to produce sufficient evidence to support its claim that this proposed pilot program would result in just and reasonable rates or would otherwise serve the public interest. CAUSE-PA RB at 5.

CAUSE-PA also notes that, in testimony, OCA witness Alexander explained that the impact of 5% RNG attributes in this program is relatively insignificant and that, in practice, no actual RNG will be delivered to customers.[73] Further, Columbia is unable to ascertain the source of RNG that will be used to supply the GPR which will not be limited to carbon offsets from Pennsylvania — or even within the United States.[74] CAUSE-PA avers that, as OCA witness Alexander states in her direct testimony, "[I]t is potentially deceptive and misleading for Columbia Gas to market this program as reducing any carbon footprint for its Pennsylvania customers since the natural gas supply coming into the homes and businesses of its customers may not reflect any impact from the purchased carbon emission reductions reflected in this

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69 CAUSE-PA notes that greenwashing is defined as: "The creation or propagation of an unfounded or misleading environmentalist image." OSBA St. 1, p. 18.

70 OSBA St. 1, pp. 2, 18-20.

71 Id., pp. 10, 20.

72 Id.

73 OCA St. 1, p. 5.

74 OCA St. 1, p. 6 citing Columbia Responses to OCA-I-8, OCA-I-23.

contract."[75] CAUSE-PA argues that while carbon offset purchases or RNG environmental attributes may result in reducing greenhouse gases somewhere, it is misleading for Columbia to promote the program as having an impact on natural gas emissions in Pennsylvania. The potential for confusion is exacerbated by Columbia's failure to provide adequate education and outreach regarding this complex program. CAUSE-PA RB at 6.

CAUSE-PA concludes that it is strongly supportive of utility proposals to advance clean energy and energy efficiency goals in Pennsylvania. However, as proposed, the GPR program would establish a bad precedent for Commission-approved "environmental" or "green" programs in Pennsylvania. CAUSE-PA urges the Commission to reject Columbia's GPR proposal, arguing that the record lacks sufficient evidence to prove the program will result in actual, verifiable benefits to the participant, their community, or the environment. CAUSE-PA RB at 6.

CAUSE-PA states it is well established that low-income consumers face disproportionately high energy burdens, and struggle to afford basic gas service to their home.[76] CAUSE-PA argues participation in the GPR would exacerbate recognized disparities in energy access with the addition of a non-basic service that provides little to no actual, verifiable benefit to the customer, their community, or the environment. Columbia's proposed protection for low-income households is inadequate to address the risk of financial harm. CAUSE-PA RB at 6-7.

Columbia proposes that customers enrolled in Columbia's CAP would be excluded from enrollment. However, CAUSE-PA notes, a large majority (65%) of Columbia's low-income customers are not enrolled in CAP.[77] Thus, the risk remains that the tens of thousands of low-income families that are not enrolled in CAP will enroll in the program and face higher charges for a service that provides no clear benefit. CAUSE-PA RB at 7.

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[75] OCA St. 1, p. 6.

[76] *See* 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261–69.267, *Final Policy Statement and Order*, Docket No. M-2019-3012599, pp. 27-30, 46, 73, 76-77 (Order Entered Nov. 5, 2019\.

[77] OCA St. 1, p. 8.

CAUSE-PA argues low-income customers already face disproportionately high rates of payment trouble and termination and the additional cost of participation in the GPR would exacerbate these issues.[78] CAUSE-PA states a limited exception covering a small percentage of low income customers will not help resolve this disparate impact, nor is it good policy to carve out a limited exception to try and resolve a deeply flawed program that is designed to increase costs for gas service without clear, identifiable benefits to consumers or Pennsylvania.[79] Indeed, CAUSE-PA states, even if the Commission were to carve out an exception for all low income customers, such an exception would be difficult to enforce given the fluctuating nature of income. CAUSE-PA RB at 7.

CAUSE-PA concludes that ultimately, it is Columbia's burden to produce evidence showing its GPR will produce just and reasonable rates for all consumers. But, as discussed, the evidence produced in this case shows that the program exposes all consumers to higher rates without a clear, commensurate benefit – exacerbating existing disparities in energy burden and corresponding termination rates. CAUSE-PA urges the Commission to reject the proposed GPR to ensure that all residential consumers, including low-income customers (regardless of CAP enrollment), are shielded from Columbia's misleading, "green-washed" program. CAUSE-PA RB at 8.

VI. GREEN PATH RIDER RATE AND COST RECOVERY

A. Columbia's Position

Columbia states that it partnered with NCSC to negotiate a contract with a third-party supplier that will fulfill the supply of RNG environmental attributes and carbon offsets purchased by customers through their participation in the pilot program. Customers participating in the program will then be allocated the RNG environmental attributes and carbon offsets. Under the contract, the annual rate will be fixed, but may be updated at the beginning of each

[78] *See 2019 Amendments to Policy Statement on Customer Assistance Program*, M-2019-3012599, Final Policy Statement and Order, pp. 27-30, 73, 76-77.

[79] OCA St. 1, pp. 5-8.

year of the program.[80] The third-party supplier must provide Columbia 180 days advance notice of a change in rate.[81] Columbia will notify customers before the new rate takes effect and will update the tariff accordingly.[82] For 2023, the fixed rate provided by the third-party supplier is $3.00 per Dth.[83] Only customers enrolled in the pilot program will bear the cost of the RNG environmental attributes and carbon offsets. Columbia MB at 10.

Columbia anticipates incurring approximately $186,000 in one-time capital costs for IT programming, and approximately $33,500 in annual operating and maintenance (O&M) expense for customer education associated with the GPR.[84] Initially, Columbia intended to seek cost recovery of the capital and O&M costs in a future base rate case from the customer classes eligible to participate in the pilot program. However, during the course of this proceeding, several parties, including the OCA, opposed Columbia's proposal to recover these costs from non-participating customers. Specifically, OCA witness Alexander testified that Columbia's proposal to recover costs from all customers would have low and moderate income customers paying these costs even if they are not enrolled in the program.[85] And although PSU witness Crist testified that PSU supports the GPR initiative and did not directly oppose Columbia's cost recovery proposal, witness Crist did state that this support was conditioned on the costs being properly allocated.[86] Columbia MB at 10-11.

In response to the feedback from the other parties concerning its cost recovery proposal, Columbia states it modified its cost recovery proposal and now proposes that these costs be recovered only from customers participating in the GPR pilot program, through the GPR

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80 Columbia St. 2, p. 7.

81 Columbia St. 2, p. 7.

82 Columbia St. 1, p. 8.

83 Columbia St. 2, p. 7.

84 Columbia Gas Exhibit 1, p. 6; Columbia St. 1, p. 7.

85 OCA St. 1, p. 8.

86 PSU St. 1, p. 5.

rate itself.[87] Including these costs in the rate would increase the rate by about $0.28 per Dth. Under the Company's new cost recovery proposal, the 2023 rate for the 100% option would increase from $3.00 per Dth to $3.28 per Dth, while the 50% option would change from $1.50 Dth to $1.78 per Dth.[88] Columbia avers its cost recovery proposal is reasonable as it limits cost recovery to only those customers who choose to enroll in the pilot program, holding all other customers harmless. Columbia MB at 11.

Regarding the OCA's claim that the RNG environmental attributes/carbon offset product being offered will do nothing to lower the carbon footprint of participating customers, Columbia asserts RNG environmental attributes and carbon offsets are an established way to use and track renewable energy. And, despite the fact that the RNG environmental attributes and carbon offsets to be purchased as part of the GPR are not from projects located within Pennsylvania, the RNG environmental attributes/carbon offsets purchased will still reduce emissions.[89] As for the OCA's assertion that customers will be buying financial products instead of renewable energy, Columbia argues this is a false statement and is not supported by the record. RNG environmental attributes are not financial products because they are not readily traded and no exchange exists to buy and sell them. Columbia states any other financial products (stocks, bonds, commodities and options) have exchanges to buy and sell. RNG attributes are used to track the environmental properties of the RNG that is put into the pipeline system. Without a way to appropriately track those properties, it could result in double counting of the environmental properties. RNG attributes must match up to physical gas that was injected into the system and physical gas that was used by a customer.[90] Columbia asserts that, contrary to OCA's claim, customers who opt to participate in the program will indeed be purchasing renewable energy products that go to lower, or offset entirely, the customer's greenhouse gas emissions. Columbia RB at 6-7.

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87 Columbia St. 1-R, pp. 2 – 3.

88 Columbia St. 1-R, p. 3.

89 Columbia St. 1-R, p. 18.

90 Columbia St. 1-R, p. 17.

In response to the OCA's point that Columbia has not specifically researched customers' acceptance of RNG environmental attributes and carbon offsets, Columbia asserts there will be no harm to customers if the GPR is approved and no customers choose to enroll. The costs associated with this program will be recovered through the GPR rate itself, so the risk is on the Company, not customers, if Columbia has over-estimated customer interest in the program. Thus, uncertainty as to customer interest should not be a reason for denying the program. Additionally, the GPR pilot program provides an opportunity to assess customer interest in both RNG environmental attributes and carbon offsets, and to educate customers about these types of renewable energy resources. Columbia RB at 7.

Regarding the OCA's claim that there is no meaningful way for a customer to compare the GPR rate with what the customer would pay for an equivalent product on the open market, Columbia states no party's witness suggested in testimony that Columbia would or intended to overcharge customers for the RNG environmental attributes/carbon offset mix. Columbia claims that, to the contrary, RESA/NGS Parties are opposing the program in part because they believe that Columbia intends to offer the RNG environmental attributes/carbon offsets to customers below cost. However, should a customer want to compare the GPR rate with the price of an equivalent product on the open market, Columbia witness Evans testified during cross examination that a customer could make such a comparison by taking their usage, converting it into pounds of carbon and tons, and applying the price per ton.[91] Columbia states that the Environmental Protection Agency publishes how many pounds of carbon are produced from one dekatherm, so this information is publicly available to customers.[92] Columbia RB 7-8.

Lastly, regarding the OCA's claim that the GPR is more expensive in comparison to two other carbon emission offset programs offered by other utility companies in other jurisdictions, the Nicor Energy's TotalGreen program in Illinois and DTE's Clean Vision program in Michigan, Columbia states its witness Evans addressed this issue in his testimony. While the Green Path Rider does have similarities to the two programs referenced by OCA, these

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[91] Tr. 85, lines 8-9.

[92] Tr. 85, lines 16-23.

programs also have major differences that account for the difference in price. The Nicor Total Green program is very similar to the GPR, except that it only includes 1% RNG environmental attributes and 99% carbon offsets, whereas the Green Path Rider will use a 5%/95% mix of RNG environmental attributes and carbon offsets. Columbia argues RNG and RNG attributes are more expensive than carbon offsets; hence, if Columbia were to reduce the GPR mix to include only 1% RNG environmental attributes, the price would be much closer (if not the same) as what Nicor charges.[93] Columbia states DTE's Clean Vision program also uses RNG environmental attributes and carbon offsets, but it is not based on actual customer usage. It is a flat fee program that allows customers to choose to pay $4, $8, $12 or $16 per month for the program. This will then offset some amount of the customer's carbon emissions. Columbia asserts that, since the GPR is tied to actual customer usage, it is expected that it could be a higher price for the customer. Columbia states that another thing that can cause differences in pricing is the timing of the programs. RNG, RNG environmental attributes and carbon offsets are all purchased on a contract basis. In the past two years, the price of carbon offsets has more than doubled. If a utility had contracted for carbon offsets two years ago, they would have a much different price than what is being offered today.[94] Columbia avers that the explanation of why there is a price difference was provided in testimony and OCA witness Alexander did not dispute this explanation. Columbia argues that, moreover, the GPR is designed as an optional program and no customer will be forced to participate; thus, if a customer believes that the program is too expensive, they will not choose to participate. Columbia RB at 8-9.

B. I&E's Position

I&E did not file a main brief or reply brief addressing the GPR rate and cost recovery. As explained below, I&E was a signatory to the JPNUS and provided a statement in support of the JPNUS.

[93] Columbia St. 1-R, p. 22.

[94] Columbia St. 1-R, p. 22.

C. OCA's Position

The OCA argues the cost impact of the GPR rate would be significant for those customers taking the service. The first-year annual premium cost (i.e., the additional cost above tariffed rates) for an average usage residential customer is $129.15 for those purchasing the 50% option and $258.30 for the 100% option.[95] Columbia estimated that 1,100 residential and 375 commercial customers would sign up for this service.[96] Columbia initially proposed to include the incremental costs to all customers in base rates to pay for the one-time IT costs ($186,000) and annual O&M expense for customer education costs ($33,500).[97] In rebuttal, Company witness Evans proposed to include IT and customer education costs in the price of the GPR program.[98] OCA MB at 11.

The OCA states that it is reasonable to expect that many Pennsylvania consumers may want to contribute to a green environment and want to lower their carbon footprint. According to Columbia, their research shows that customers want to "lower their carbon footprint" and 83% support being given the option of using renewable energy and 43% indicated they are willing to pay more for renewable energy.[99] However, despite these findings, the OCA asserts that the GPR would not allow Columbia customers to do any of these things. OCA MB at 12.

The OCA argues that the products offered would do nothing to "lower" the carbon footprint of Columbia customers and customers would not be buying "renewable energy." The OCA states that, at best, it can be said that they will be offsetting their carbon usage and/or buying financial products (in this case RNG attributes) that support the development of renewable natural gas. Thus, these findings by Columbia that customers would

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95 OCA St. 1, p. 3.

96 OCA St. 1, p. 3.

97 OCA St. 1, p. 3.

98 OCA St. 1-SR, p. 7.

99 OCA St. 1, p. 3; Columbia St. 1, p. 5.

be willing to pay more do not support the conclusion that customers would be willing to pay more for what Columbia is actually proposing to offer. The OCA avers that Columbia, however, has not researched customer acceptance of utilizing RNG environmental attributes and carbon offsets through its regulated service.[100] According to OCA, this lack of research of Pennsylvania customer acceptance of GPR's use of RNG attributes and carbon offsets is concerning. Columbia's survey questions supporting its filing were vague. OCA witness Alexander explained that while Columbia customers were asked in a survey whether they would like to be "given the option of using renewable energy," the Company has not researched customer acceptance of RNG attributes and carbon offsets through its regulated service.[101] OCA MB at 12.

The OCA argues that the Company has provided no customer education or marketing materials for review in this proceeding.[102] Thus, it is not possible to assess how well the Company may inform "customers about the nature of the product and the impact (or lack of impact) of this product on Pennsylvania customers' natural gas supply."[103] The OCA states that the Company's position that the Commission should approve the GPR tariff first, without review by the parties of consumer education and marketing materials, is not reasonable. OCA MB at 12-13.

On the topic of cost recovery, the OCA avers that the Company's proposal to recover the costs of consumer education lacked detail as to how it would be allocated between residential and business customers.[104] The Company's revised proposal to include IT implementation and annual customer education costs in the cost of the GPR service would avoid improper allocation of costs through base rates to all distribution service customers.[105] However,

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100 OCA St. 1, p. 4.

101 OCA St. 1, p. 4.

102 OCA St. 1, p. 5; Tr. 80.

103 OCA St. 1, p. 7.

104 OCA St. 1, p. 7.

105 OCA St. 1-SR, p. 7.

OCA witness Alexander still opposed the proposed GPR overall as unreasonable because of the very real likelihood that customers would be confused and misled.[106] OCA MB at 13; *see also* OCA RB at 5.

The OCA asserts that there would be no meaningful way for consumers to know whether they are getting their money's worth. Company witness Evans described some of the steps a Columbia customer would need to take to compare the price of Columbia's GPR bundled product with the price of carbon offsets from a different source, different supplier.[107] Since Columbia's proposed GPR product is a combination of RNG attributes and carbon offsets that are priced differently, the consumer would need to take multiple steps to allow for a direct comparison of the offset costs available from another supplier.[108] Factors would include the consumer's consumption level, identification of a pounds of carbon per dekatherm emitted value, and calculations to arrive at a cost per ton of an offset.[109] Company witness Evans acknowledged that it would take some knowledge of emissions and carbon emissions to make the comparison based upon price.[110] Mr. Evans stated that if a consumer was looking for a specific type of offset, then the consumer would need to know specific information about the content of the monthly GPR mix.[111] That monthly mix would be determined by supplier under the NCSC contract. Even if Columbia has identified the proposed first year price of the GPR offering for residential and business service customers (not including certain allocated costs), there is a lack of other information to help the consumer make an informed choice both as to whether the GPR service will have the desired impact on their gas supply and the value of the optional service. OCA MB at 13-14.

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106 OCA St. 1-SR, p. 7.

107 Tr. 84-85.

108 Tr. 84-85.

109 Tr. 85.

110 Tr. 86.

111 Tr. 86.

At between $130 - $260 per month, the OCA argues Columbia's proposed GPR program is expensive in comparison to other carbon emission offset programs in other jurisdictions. OSBA witness Vitulli noted that the two voluntary programs offering a blend of offsets and RNG credits that are open to residential customers are Nicor Energy's TotalGreen program in Illinois and DTE's Clean Vision program in Michigan.[112] Columbia's proposed GPR program cost of $3 per Dth is more than four times more expensive compared to Nicor Energy's Total Green program priced at $0.736 per Dth.[113] Additionally, the DTE Clean Vision program in Michigan is $192 per year for a 100% offset program for residential and commercial consumers.[114] The 100% offset option for Columbia's GPR program would add an approximately $258.30 per year premium to participating Pennsylvania residential customer's bills.[115] The OCA notes that amount does not include certain implementation costs. OCA MB at 14.

The OCA concludes that Columbia's proposal has all the makings of a boondoggle for consumers. While it has the superficial appearance of being valuable, it is complicated and difficult to explain to consumers, expensive, and will produce little to no actual carbon reductions in Pennsylvania. Even as a voluntary program paid for entirely by subscribers, Columbia has failed to show that the proposed GPR would result in just and reasonable rates and that the proposed optional, commodity related service is in the public interest. OCA MB at 14-15.

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112 OSBA St. 1, p. 16; OSBA St. 1-S, pp. 3-4.

113 OSBA St. 1, pp. 16-17.

114 OSBA St. 1, p. 17.

115 *Id*; OCA St. 1, p. 3. The OCA states that while both the Nicor and DTE programs are similar to Columbia's proposal in that they both use RNG credits and carbon offsets, both the Nicor program and the DTE program provide a local benefit. OSBA St. 1-S, p. 4. For the Nicor program in Illinois, all offsets originate from landfill gas capture purchased from the Rochelle Landfill in Illinois. *Id*. The DTE program in Michigan specifies forestry offsets purchased from Michigan Forestry projects. *Id*. The OCA asserts that these are the only two programs that are comparable to the GPR given their voluntary nature and use of a blend of RNG environmental attributes and carbon offsets. OSBA St. 1S, p. 4.

D. OSBA's Position

The OSBA did not file a main brief or reply brief addressing the GPR rate and cost recovery. As explained below, the OSBA was a signatory to the JPNUS and provided a statement in support of the JPNUS.

E. RESA/NGS Parties' Position

The RESA/NGS Parties' state that Columbia has proposed the GPR as a non-basic service, yet it has included it in its tariff. A non-basic product or service should not be included in Columbia's jurisdictional tariff and to do so is contrary to the Public Utility Code.[116] Section 1302 makes it clear that a utility's tariff is to contain only "rates established by it and collected or enforced, or to be collected or enforced, within the jurisdiction of the commission."[117] While this may seem like a purely technical argument, the RESA/NGS Parties argue it is not. Rather, they assert this simple fact gives rise to a host of critical and dispositive issues. First, while Section 1509 of the Code[118] does not explicitly require it, the Commission's Regulations mandate that charges for non-basic products and services, which include the GPR,[119] be charged separately from basic service charges.[120] But the impact of this distinction goes much deeper and implicates Columbia's intention to recover the costs of a non-jurisdictional, non-basic product from jurisdictional distribution customers.[121] RESA/NGS MB at 9; *see also* RESA/NGS RB at 3.

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116 66 Pa.C.S. § 1302.

117 *Id.*

118 66 Pa.C.S. § 1509.

119 *See* Exhibit JH-2.

120 52 Pa. Code § 56.13.

121 Columbia Tariff Filing Requirements, Response to §53.52(a)(3), page 3 of 17. ("Columbia will seek recovery of capital and O&M costs associated with its proposal in a base rate case.")

The RESA/NGS Parties aver that Columbia has not proposed any intention to separate the operations or expenses related to the GPR from other expenses of providing Natural Gas Distribution Service or Default Service.[122] Accordingly, the RESA/NGS Parties state it can only be assumed that Columbia intends to provide the GPR product using its existing O&M structure including its administrative employees, its existing billing system (which it admits that it already has modified to allow it to bill the GPR), the same customer service personnel, the same office space, the same computers, etc. and to recover these costs as an undefined portion of its jurisdictional distribution costs as part of a base rate filing. The RESA/NGS Parties argue that the GPR, however, is not jurisdictional and is not distribution service, nor is it default service. The GPR is a competitive non-basic service, being provided by the marketing operation of Columbia, whether structurally separate or not. The RESA/NGS Parties assert that Columbia's proposal violates the Commission's regulations that require the separation of personnel and expenses as between jurisdictional and competitive services.[123] The RESA/NGS Parties state that, setting aside for a moment the anti-competitive implications of this failure to separate the expenses and personnel responsible for the GPR, consider the harm to Columbia's distribution customers that do not avail themselves of the GPR – they will be subsidizing a portion of the costs of the service through base rates.[124] This is one of the precise harms the regulations were intended to prevent. RESA/NGS MB at 10; *see also* RESA/NGS RB at 3-4.

The Commission's Regulations at 52 Pa. Code § 62.141, define "Affiliated NGS" as "An NGS engaging in marketing activities related to natural gas supply services by the marketing division or marketing operation of an NGDC."[125] The RESA/NGS Parties' aver Columbia's activities here fall squarely into the definition of marketing activities, and the product clearly is "related to" natural gas supply services being offered by Columbia to compete

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122 RESA/NGS Parties' St. 1, p. 10:6-21.

123 52 Pa. Code §§ 62.142(9), (12) & (13).

124 RESA/NGS Parties' St. 1, p. 6:8-14; Columbia St. 1, pp. 5-6.

125 52 Pa. Code § 62.141, Affiliated NGS, (ii).

with products already in the market.[126] The GPR product will be promoted as a means of reducing or eliminating the carbon footprint associated with a customer's natural gas consumption and will be sold in quantities that will be based on the customer's actual usage. The RESA/NGS Parties state that only default service natural gas customers will be eligible for this competitive service that competes with other similar products in the marketplace. The RESA/NGS Parties conclude that there can be no doubt that Columbia's GPR activities are subject to the requirements of the Standards of Conduct. RESA/NGS MB at 10-11.

The RESA/NGS Parties state that, having established that the Standards of Conduct apply to the offering of the GPR, it is necessary to catalogue the impact of these requirements on the GPR – none of which are accounted for in Columbia's request for approval of the GPR. The RESA/NGS Parties assert that, at the outset, the Standards of Conduct require that Columbia allocate all the costs or expenses for general administration or support to the GPR.[127] The Standards also require that the GPR function "maintain separate books and records" and that "[t]ransactions between the NGDC and its affiliated NGS may not involve cross-subsidies."[128] This same section also requires that shared facilities be fully and transparently allocated as between the NGDC and the competitive functions; and that "accounts and records shall be maintained so that the costs incurred on behalf of an affiliated NGS are clearly identified." The RESA/NGS Parties state that none of these are proposed as part of the GPR. Finally, the Standards require that employees, including those with responsibility for "marketing and customer service" may not be shared with the competitive function and must maintain physically separate offices.[129] RESA/NGS MB at 11.

The RESA/NGS Parties argue these protections are necessary to ensure that Columbia does not offer competitive products and services that are paid for or otherwise will

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[126] *Dominion Retail, Inc. v. Pa. Pub. Util. Comm'n*, 831 A.2d 810 (Pa. Cmwlth. 2003) (*Dominion Retail*) (Commonwealth Court agreed that Standards of Conduct were applicable to a utility providing competitive products but found that application of Standards of Conduct to particular gas supply product was not warranted because it was not intended to compete with Supplier offerings).

[127] 52 Pa. Code § 62.142(9).

[128] 52 Pa. Code § 62.142(12).

[129] 52 Pa. Code § 62.142(13).

harm captive ratepayers who cannot escape the intent to impose GPR costs on them. The RESA/NGS Parties argue it is obvious that requiring separation of employees and expenses is a step toward leveling the competitive playing field by ensuring that those same captive ratepayers are not forced to give Columbia a leg-up in the competitive market by offering a product whose price would not cover the cost of providing it. RESA/NGS MB at 12.

The RESA/NGS Parties note that Columbia's position in this matter is that the Standards of Conduct do not apply. Specifically, Columbia President Mark Kempic stated that because Columbia will not be providing the GPR through an affiliate, the Standards of Conduct do not apply.[130] The RESA/NGS Parties argue Mr. Kempic's argument entirely misses the mark and must be rejected – the regulations clearly apply to competitive activities regardless of whether they are provided by an affiliate or the utility marketing operation – which the GPR clearly is. The RESA/NGS Parties assert that, in its Rulemaking Order promulgating the Standards of Conduct, the Commission made it clear that these standards apply "*without regard to the structural relationship of the LDC's marketer to the LDC*."[131] In short, the GPR is a competitive non-basic service and should not be included in Columbia's tariff. Also, the Standards of Conduct apply to Columbia's provision of the GPR, and the GPR does not comply with the requirements of the Standards of Conduct. The RESA/NGS Parties conclude that the GPR must be rejected as illegal. RESA/NGS MB at 12.

F. PSU's Position

In its direct testimony, PSU witness Crist indicated a concern with how the annual O&M expense and IT programming costs would be allocated in the Company's next base rate case.[132] Additionally, I&E witness Cline recommended that the annual O&M expense and one-time IT costs should not be recovered from ratepayers in any capacity.[133] PSU MB at 6.

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130 Columbia St. 4-RJ, pp. 1-2.

131 *Permanent Standards of Conduct*, Docket No. L-00030162; 36 Pa.B. 1748 (emphasis in original).

132 PSU St. 1, p. 5:17-19.

133 I&E St. 1, p. 4:7-12.

In response to the testimony of PSU and I&E, Columbia modified its initial cost recovery proposal. While it would continue to recover the costs associated with the environmental attributes from GPR participants, Columbia now proposed to recover the annual O&M expense and one-time IT costs through the GPR charge.[134] To accomplish this, the Company proposed to increase the cost of the GPR to cover the O&M expense and the one-time IT costs over the five year period of the GPR's pilot term.[135] The Company estimates that including these costs in the GPR rate would increase the rate by about $0.28 per Dth. The 100% option would be $3.28 per Dth, while the 50% option would change to $1.78 per Dth for 2023.[136] PSU MB at 6-7.

In response to this modification, PSU witness Crist agreed that the proposed modification to the Company's cost recovery proposal is acceptable as it would ensure that the costs for the GPR would be paid for by just those customers who elect the optional rider.[137] Likewise, I&E indicated that the proposal to recover all associated costs only from GPR participants is reasonable if the Commission determines that customers should be responsible for these costs.[138] PSU notes this is also consistent with the OSBA's position as its witness had also indicated that the O&M expense and one-time IT costs should be collected either from the Company's shareholders or from GPR participants.[139] PSU MB at 7.

PSU submits that the Company's cost recovery proposal is appropriate and, if the Commission approves the GPR, it should be adopted by the Commission. Ultimately, recovering costs to implement and operate the program from only its participants ensures that cost recovery reasonably aligns with cost causation principles. This allocation also avoids recovering costs from customer accounts that cannot participate in the GPR, such as large industrial customer

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134 Columbia St. 1-R, pp. 2:24-3:3.

135 Id.

136 Columbia St. 1-R, p. 3:5-7.

137 PSU St. 1-SR, pp. 1:15-2:5.

138 I&E St. 1-SR, p. 6:3-8.

139 OSBA St. 1-R, p. 4:20-22.

accounts or customers who shop for natural gas.[140] Lastly, PSU asserts that no party has opposed this method of cost recovery. PSU MB at 7.

G. CAUSE-PA's Position

CAUSE-PA did not file a main brief. However, in its reply brief, CAUSE-PA argues that Columbia's proposed GPR program is expensive in comparison to other carbon emission offset programs in other jurisdictions.[141] In testimony, OSBA witness Vitulli compared the cost of Columbia's proposed GPR program to two other similar programs offering a blend of offsets and RNG credits that are open to residential customers, Nicor Energy's TotalGreen program in Illinois and DTE's Clean Vision program in Michigan.[142] Ms. Vitulli explained that:

> The Nicor Total Green (Basic) program is a mostly offset-based program. It is priced at $0.736 per Dth, which is much more affordable than the $3 per Dth proposed by Columbia for the GPR. The DET Clean Vision Program in Michigan is priced at $16/month, or $192/year, for a 100% offset, for a residential or small commercial customer.

CAUSE-PA states that Columbia has not provided any reasonable justification for the substantial cost difference between its proposed GPR and the programs from other states. CAUSE-PA argues low-income customers should not be placed at risk of paying substantial additional costs for a product that provides little to no actual, verifiable benefit to the consumer, their community, or the environment. CAUSE-PA RB at 8-9.

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[140] *See* Columbia St. 1, p. 4:18-24 (indicating that customers with annual usage greater than 540,000 therms or enrolled in the CHOICE program are not eligible to participate).

[141] OCA MB at 15.

[142] OSBA St. 1, p. 16; OSBA St. 1-S, pp. 3-4

VII. CONSUMER PROTECTIONS AND CONSUMER EDUCATION

A. Columbia's Position

Columbia avers its GPR pilot program includes many consumer protections to guard participating customers from potential harms. These consumer protections include:

> - Restricting residential customers who are participating in the Company's CAP from enrolling in the pilot program.
> - Restricting customers who are in arrears from enrolling in the pilot program.
> - Removing participating customers from the pilot program if they are in arrears for a period of three billing cycles.
> - Prohibiting service termination for non-payment of the Green Path Rider portion of the bill.
> - Customers will be advised of a change in the annual rate 30 days in advance of the new rate.[143]

Columbia MB at 11-12.

Columbia asserts that, even with these consumer protections, OCA witness Alexander argues that there is potential for low and moderate income customers to enroll in the pilot and increase their monthly bill.[144] Low and moderate income customers would be eligible to enroll in the pilot program, so long as they are not in arears on their bill and not participating in the Company's CAP; however, the GPR was designed to identify any customer, lower income or otherwise, from becoming payment troubled while enrolled in the pilot program, and removing those customers from the program. Columbia asserts that no customer will have their service terminated for non-payment of the GPR portion of their bill. Columbia also asserts there is no record evidence that supports treating low-income and moderate-income customers who are not payment troubled in a manner that is different from other residential customers. Columbia MB at 12; *see also* Columbia RB at 10-11.

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143 Columbia Gas Exhibit 1, p. 22 (Green Path Rider tariff page).

144 OCA St. 1, p. 5.

Columbia also notes that OCA witness Alexander argues that participating customers should be required to affirmatively elect to continue participating if the rate changes, and if the customer does not affirmatively elect to continue their participation in the pilot, the customer should be removed from the pilot program.[145] As discussed above, the third-party supplier can adjust the rate annually, with any new rate taking effect January 1st. If the rate is adjusted, participating customers will receive notice at least 30 days in advance of the rate change. Columbia avers this notice will provide customers with the opportunity to leave the pilot program should the customer determine that they do not want to participate under the new rate. The Company submits that the GPR pilot program includes appropriate customer protections, and the issues raised by OCA witness Alexander do not warrant denial of the pilot program. Columbia MB at 12-13; *see also* Columbia RB at 10-11.

Columbia also asserts that if the GPR is approved, Columbia will fully explain to customers what the program is and how it works. Columbia will provide questions and answers on their website regarding the GPR along with direct email and some other social media communications.[146] OCA witness Alexander criticizes the Company for not submitting its planned customer educational materials or customer disclosure materials for review.[147] As explained by Columbia witness Evans, developing customer education materials before the program is approved by the Commission would have been premature, as the details of any program being proposed for Commission approval may be modified from what the Company initially proposed, whether through the litigation process, settlement or Commission order.[148] The Company states it has committed to developing appropriate and accurate information for customers regarding the GPR. Columbia states all materials will be done in a way to clearly and accurately describe the pilot program to customers and the materials will be fully reviewed by attorneys to prevent any misleading information being included. The Company also states it is

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145 OCA St. 1, p. 8.

146 Columbia St. 1, pp. 6-7.

147 OCA St. 1, p. 7.

148 Columbia St. 1-R, p. 7.

willing to provide an advanced copy of educational materials to the Commission for review to ensure compliance with any Commission directives.[149] Columbia MB at 13-14.

In its reply brief, Columbia states it agrees with the OCA that consumer education before a customer enrolls in an optional service that would increase the total bill is a necessary protection. Columbia states that is why the Company committed to submitting its customer educational materials to the Commission prior to issuing the material to customers.[150] Columbia states that, additionally, the JPNUS, if approved, requires Columbia to provide the Statutory Advocates copies of the customer educational materials 30 days prior to using the materials to allow the Statutory Advocates the opportunity to review and provide feedback on the materials. Columbia will also host two virtual working groups with the statutory parties to discuss the customer educational materials.[151] As to the OCA's argument that Columbia's lack of proposed customer educational materials as part of its initial filing is a severe and fatal defect of Columbia's proposal, Columbia states this argument should be rejected because inclusion of draft educational materials is not a filing requirement, nor, to Columbia's knowledge, is this a customary practice for utilities proposing new customer programs. For example, Columbia did not include draft customer educational or marketing materials related to its Residential Energy Efficiency Program as part of the filing seeking approval of its now Commission-approved Residential Energy Efficiency Program.[152]

B. I&E's Position

I&E did not file a main brief or reply brief addressing consumer protections and consumer education. As explained below, I&E was a signatory to the JPNUS and provided a statement in support of the JPNUS.

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149 Columbia St. 1-R, p. 7.

150 Columbia St. 1-R, p. 7.

151 JPNUS at ¶¶ 22, 23.

152 Columbia notes its Residential Energy Efficiency Program was approved in the Company's 2022 base rate proceeding by Commission order entered on December 8, 2022, at Docket No. R-2022-3031211.

C. OCA's Position

The OCA asserts that consumer education before a customer enrolls in an optional service that would increase the total bill is a necessary protection.[153] The OCA states that Columbia has not proposed any customer education, marketing plan, or disclosure materials for review in this proceeding.[154] The OCA argues that, given the potential for misleading customers about the nature of the product and the environmental impact (or lack of environmental impact) of this product on Pennsylvania customers' natural gas supply, this omission is a serious, material defect.[155] OCA MB at 15; *see also* OCA RB at 7-8.

The OCA avers that billed utility service to Pennsylvania customers in accordance with Commission-approved natural gas distribution service tariffs should provide the consumer with clear information as to what they are being billed for. While carbon offset purchases or RNG environmental attributes may result in offsetting greenhouse gases somewhere, a regulated distribution service program marketed to Pennsylvania customers should not mislead customers about the impact of the program on natural gas emissions related to their natural gas service in Pennsylvania. OCA MB at 15.

The OCA asserts that the lack of any presentation of any proposed marketing and customer education material is a severe and fatal defect of Columbia's proposal. The OCA states that Columbia's public notice for this filing to Pennsylvania consumers clearly reflects a misleading presentation of the proposal and provides as follows:

> Under Columbia's proposed Green Path Rider, Columbia will purchase renewable natural gas ("RNG") environmental attributes and carbon offsets to **reduce a participating customer's emissions associated with their natural gas usage**.[156]

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153 *See* OCA St. 1-SR, p. 5.

154 OCA St. 1, p. 7.

155 OCA St. 1, pp. 5, 7; OCA St. 1-SR, p. 6.

156 Notice of Proposed Tariff Modifications for Exclusion of the Green Path Rider, available at https://www.columbiagaspa.com/docs/librariesprovider14/rates-and-tariffs/notice-of-proposed-tariff-modification.pdf (last accessed on March 5, 2023).

OCA St. 1-SR at 6. (Emphasis added). The OCA argues that this is at best misleading and at worst simply untrue. OCA MB at 15-16.

The OCA argues that the lack of any customer education materials marketing plan, or disclosure materials for review in this proceeding further illustrates the lack of transparency of Columbia's proposal. The proposed program does not reduce a participating customer's emissions associated with their natural gas usage as Columbia agrees that the contractual provision of carbon offsets is not limited to carbon offsets from Pennsylvania or even within the United States.[157] The OCA states that Columbia's agreement to change its tariff language from "reduce" emissions to "offset" emissions illustrates the difficulty in accurately portraying important information to Pennsylvania consumers.[158] The OCA states that this proposed change indicates that Columbia acknowledges that the GPR program does not reduce emissions for consumers in Pennsylvania. Columbia has stated that it will provide additional information on the program to their customers only after a Pennsylvania consumer has voluntarily enrolled in the program.[159] OCA MB at 16.

To meet its obligations under the proposed GPR, Columbia's corporate affiliate NCSC signed a contract for the carbon offsets in the GPR program. Under the contract, the OCA states that neither Columbia's consumers, nor the Commission will be provided information on the projects generating offsets such as location, project type, or quality.[160] The OCA states that it is important to remember that the natural gas generation industry was restructured in order to provide consumers with direct access to the retail gas market.[161] It is improper to allow the utility bill to become the vehicle for collecting costs associated with non-regulated services. OCA MB at 16-17.

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157 *See* OCA St. 1, pp. 4-6.

158 OCA St. 1-SR, p. 6.

159 OCA St. 1-SR, p. 5.

160 OSBA St. 1, p. 20.

161 *See generally, Natural Gas Choice and Competition Act*, 66 Pa.C.S.§§ 2201-2212.

The OCA asserts that Columbia's proposal to exclude CAP customers from this program, while appropriate, in no way resolves the OCA's concerns about the risk of increased bills for low-income and marginal income consumers.[162] While Columbia plans on excluding CAP customers, customers in arrears, and customers enrolled in the CHOICE program from enrolling in the proposed program, low-income customers would still face exposure to the proposed program. OCA MB at 17.

The OCA argues the Company's approach is not sufficient to protect low-income and marginal income consumers from higher total bills.[163] According to Columbia, 65% of its low-income customers are not enrolled in CAP.[164] As such, the OCA states that 65% of Columbia's low-income customers might remain eligible to enroll in the GPR program, and excluding CAP and certain other customers from the program in no way resolves concerns about marketing this program to low-income customers and enrolling low-income customers in a program that could increase the total bill for essential home heating. OCA MB at 17; *see also* OCA RB at 5-7.

OCA witness Alexander opposed the Company's initial proposal to recover the IT implementation costs and annual consumer education costs from all distribution service customers, including low-income customers, through base rates.[165] Pennsylvania consumers who are not participating in this program should not be paying for any of the costs of this program.[166] The OCA states that the Company's proposed change, to include the IT costs and annual customer education costs in the price of the GPR optional product was an improvement. However, the OCA states that the Company's cost recovery change did not resolve Ms. Alexander's position that the other defects of the GPR program, including the

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[162] OCA St. 1, pp. 5, 8.

[163] OCA St. 1, pp. 5, 8.

[164] OCA St. 1, pp. 8.

[165] OCA St. 1, pp. 5, 8.

[166] OCA St. 1-SR, p. 7.

potential increased bills for enrolled low-income consumers, weigh against its approval.[167] OCA MB at 17-18.

Despite the program's price only being fixed for the first year, as proposed, the OCA notes that enrolled customers will continue their enrollment unless the customer opts out.[168] The OCA avers this creates a negative option renewal for paying a different price in the subsequent years.[169] The OCA argues while customers will be informed of the annual price change feature during their enrollment, retaining customers in a pilot program that changes costs annually without requiring consent from the customer is unreasonable. The OCA asserts this would be true if the value proposition of the product were clear and easy to understand, and it is even more so where, as is the case here, the program is expensive and difficult to explain or understand. OCA MB at 18; *see also* OCA RB at 3.

The OCA asserts Columbia should not be allowed to change prices annually and retain enrollment of customers from the prior year with a negative option enrollment policy. If the price for the RNG attribute and carbon offset product changes annually, Columbia should disclose this price to current customers and obtain an affirmative agreement to continue enrollment. Negative option renewal policies – policies that require affirmative action by the customer to cancel the service – should be rejected for on-bill financed non-basic services. OCA MB at 18; *see also* OCA RB at 4-5.

If the program is approved against the OCA's recommendation, the OCA recommends that Columbia should not be allowed to change prices annually and retain enrollment of customers from the prior year with a negative option enrollment policy. If the price for the RNG attributes and carbon offsets product changes annually, this price should be

[167] OCA St. 1-SR, p. 7.

[168] OCA St. 1, p. 5.

[169] OCA St. 1, p. 5.

disclosed to current customers and obtain an affirmative agreement to continue enrollment.[170] OCA MB at 18; *see also* OCA RB a 5.

D. OSBA's Position

The OSBA did not file a main brief or reply brief addressing consumer protections and consumer education. As explained below, the OSBA was a signatory to the JPNUS and provided a statement in support of the JPNUS.

E. RESA/NGS Parties' Position

The RESA/NGS Parties did not file a main brief or reply brief addressing consumer protections and consumer education.

F. PSU's Position

PSU did not file a main brief or reply brief addressing consumer protections and consumer education.

G. CAUSE-PA's Position

CAUSE-PA did not file a main brief in this proceeding. However, in its reply brief CAUSE-PA states it disagrees with Columbia's assertion that the program includes appropriate consumer protections. CAUSE-PA asserts that, as it stated previously, the exclusion of CAP customers is insufficient to protect tens of thousands of low income customers from the inherent risk of paying more than anticipated without a commensurate benefit – exacerbating already disproportionate energy burdens and termination rates across low income

[170] OCA St. 1, p. 9.

communities.[171] Moreover, CAUSE-PA states, Columbia's proposal to exclude and otherwise remove customers with arrears from the program if they are in arrears for a period of three billing cycles is also insufficient, as these customers may be terminated by then. CAUSE-PA submits that although Columbia asserts that it will not terminate service solely for non-payment of the GPR portion of the bill, it is unclear how Columbia intends to distinguish customer payments made toward the Green Path Rider versus the tariff rates. CAUSE-PA RB at 9.

CAUSE-PA also asserts that Columbia's proposal also fails to include educational materials sufficient to explain the terms and conditions, potential risks, and purported benefits of this complex program.[172] CAUSE-PA states Columbia's marketing of the proposed GPR as an RNG product and its lack of transparency about the nature and source of the offsets amounts to greenwashing and should be rejected.[173] CAUSE-PA RB at 9-10.

CAUSE-PA argues Columbia's proposal has key hallmarks of greenwashing, including selective disclosure and the use of vague or ambiguous terms, without taking expected or concrete action to address the environmental problem at hand. CAUSE-PA states that, as explained previously in its reply brief, Columbia intends to market the GPR as an RNG program, even though 95% of the product will be supplied through unspecified carbon offsets. CAUSE-PA notes that OSBA witness Vitulli explained that carbon offsets are notoriously unreliable for delivering the greenhouse gas (GHG) reduction benefits that they are designed to provide," and "their commoditization has been premature."[174] Ms. Vitulli explained that, in its market research survey, Columbia Gas did not mention the word "offset" or "environmental attributes" or "credits" at all and only asked customers about their interest in and willingness to pay for RNG.[175] OCA witness Alexander pointed out that, "[t]he Company has not researched customer

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171 *See* Final Policy Statement and Order, pp. 27-30, 46, 73, 76-77; *see also Columbia Gas of Pa., Inc. Universal Serv. and Energy Conservation Plan for 2019 2021,* Docket No. M-2018-2645401, pp. 38-40 (Order Entered Aug. 8, 2019).

172 OCA St. 1, p. 7.

173 OSBA St. 1, pp. 2, 18-20; OCA St. 1, pp. 4-7.

174 OSBA St. 1, p. 18.

175 OSBA St. 1, p. 14.

acceptance of RNG attributes and carbon offsets through its regulated services."[176] CAUSE-PA avers that there is no evidence that consumers would purchase the GPR if they understood that they were only purchasing carbon offsets or that those offsets were from an undisclosed geographic location anywhere in the world – with little to no verification or oversight. CAUSE-PA RB at 10.

CAUSE-PA asserts the Company has provided no customer education or marketing materials for review in this proceeding.[177] CAUSE-PA notes that Columbia asserts in its main brief that it will fully explain the program and how it works to customers after the program is approved. However, CAUSE-PA states, Columbia does not describe how it would explain this new and complex program to residential consumers. CAUSE-PA argues that, without the ability to review outreach and education documentation in this proceeding, there is no record evidence to substantiate Columbia's claim that it will fully explain the program and certainly no ability to ascertain whether consumers would be able to understand whatever explanation Columbia derives. Further, Columbia's offer to provide an advanced copy to the Commission for review to ensure compliance with any Commission directives means little considering the novelty of this program and the consequent dearth of Commission directives on the issue. Thus, CAUSE-PA concludes, the lack of educational materials proposed for the pilot program exacerbates the risk that low-income customers will pay more through enrollment, without receiving any actual, verifiable benefit for themselves, their community, or the environment. CAUSE-PA RB at 10-11.

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[176] OCA St. 1, p. 4.

[177] OCA St. 1, p. 5; Tr. 80.

VIII. COMPETITIVE MARKET ISSUES

A. Columbia's Position

Columbia avers the GPR is consistent with the requirements of the Natural Gas Choice and Competition Act, 66 Pa.C.S. §§ 2201, *et seq*. (Competition Act) and, if approved, the GPR would promote competition by making products that are designed to offset carbon emissions available to all customers, regardless of whether a customer shops in the competitive retail market or receives default supply service from Columbia. Columbia states that the RESA/NGS Parties' and the OCA's purported concerns regarding the effects of the GPR on competition do not provide a reasonable basis for rejecting the GPR. Columbia MB at 14.

Columbia states the Competition Act was enacted to restructure the natural gas industry by introducing the retail sale of natural gas in an open market, and in particular, allowing customers to select independent suppliers of natural gas.[178] To further this goal, the Competition Act requires, *inter alia*, NGDCs, such as Columbia, to maintain unbundled natural gas supply services and provide distribution service to all retail gas customers and all natural gas suppliers, affiliated or nonaffiliated, in a nondiscriminatory manner.[179] Columbia MB at 14.

Columbia states the RESA/NGS Parties argue that the GPR is inconsistent with the intent of the Competition Act because it would allow Columbia to offer a product that is "the domain of the competitive retail market."[180] Contrary to the RESA/NGS Parties' position, Columbia argues that the Competition Act does not give suppliers exclusivity over non-basic

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[178] *See Natural Gas Distribution Companies and Promotion of Competitive Retail Markets*, 2011 Pa. PUC LEXIS 678, *2 (Final Rulemaking Order entered Feb. 23, 2011).

[179] 66 Pa.C.S. § 2203(3), (4). As required by Section 2204(b) of the Competition Act, 66 Pa.C.S. § 2204(b), Columbia filed for approval of a restructuring plan on August 2, 1999. *See Application of Columbia Gas of Pennsylvania for Approval of a Restructuring Plan*, Docket No. R-00994781 (Aug. 2, 1999).

[180] RESA/NGS Parties St. 1, p. 7.

products and services,[181] such as the optional purchase of renewable natural gas attributes and carbon offsets, nor does the Competition Act prohibit NGDCs from offering non-basic products and services simply because natural gas suppliers (NGSs) offer the same or similar products and services. Columbia asserts that the RESA/NGS Parties' argument that value-added products and services, including any emissions reducing product offerings, belong exclusively to NGSs has no basis in the law and should be rejected. Columbia states that the GPR supports the Competition Act's purpose of fostering competition by providing default service customers with an option to purchase products associated with emissions reduction where previously these types of products have been available only to shopping customers in Columbia's service territory.[182] Columbia MB at 15.

Columbia states that, unlike the RESA/NGS Parties' position that renewable natural gas attributes and carbon offsets are products that should be offered only by NGSs in the competitive retail market, it supports these products being offered both by NGDCs and by NGSs.[183] As Columbia witness Kempic explained, the natural gas supply market was restructured to provide consumers with the ability to receive their supply of natural gas from either their NGDC or an NGS, as well as to promote the development of new service and pricing options available to customers.[184] Columbia argues that the RESA/NGS Parties' position would eliminate NGDCs as potential sources for new services and pricing options, which would result in fewer options for customers and hinder the development of new offerings that may be beneficial to customers.[185] Moreover, Columbia notes, NGDCs already offer non-basic, value-added products to customers and are permitted to do so in accordance with the requirements of

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[181] Columbia notes that non-basic services are defined as "optional recurring services which are distinctly separate and clearly not required for the physical delivery of public utility service or default service." 52 Pa. Code § 56.2.

[182] RESA/NGS Parties' St. 1, pp. 8-9.

[183] Columbia St. 1-RJ, p. 8.

[184] Columbia St. 4-R, p. 5.

[185] Columbia St. 4-R, p. 5.

the Commission's regulations.[186] In this regard, the optional products being offered pursuant to the GPR are no different than any other non-basic service offered by the utility. Columbia MB at 15-16.

The RESA/NGS Parties expressed concern that the GPR would harm suppliers by causing more customers to elect natural gas supply from the NGDC.[187] Columbia avers the RESA/NGS Parties misconstrue the purpose of the GPR. The purpose of the GPR is not to compete with NGSs or to cause more customers to elect default supply service.[188] The purpose of the GPR is simply to allow default service customers an option to purchase renewable natural gas attributes and carbon offsets, which is an option that would otherwise not be available to customers who receive default supply. Columbia states that these products should be available to all customers, not just customers who elect to shop with a supplier.[189] Columbia MB at 16. Columbia also states there is no evidentiary support in the record for a finding that approval of the GPR will displace competitive products. Columbia notes RESA/NGS Parties' witness Holtz admits that there is no evidentiary support to conclude that there will be any harm to the competitive market, testifying that "evidence of Columbia or other utilities luring customers will be impossible for any supplier to prove."[190] Thus, Columbia concludes, witness Holtz is merely speculating as to what he thinks may occur, without any data to support his theory. Columbia RB at 11.

The RESA/NGS Parties claim that the GPR will result in NGSs losing customers who want to reduce their carbon footprint to Columbia.[191] The RESA/NGS Parties also contend that the GPR will enable Columbia to use its monopoly position to lure customers away from

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186 *See, e.g.*, 52 Pa. Code § 56.323(3) (prohibiting termination of service for non-payment of charges for non-basic services) and 52 Pa. Code § 56.23 (directing that partial payments first be applied to charges for basic utility service).

187 RESA/NGS Parties' St. 1, p. 7.

188 RESA/NGS Parties' St. 1, p. 7.

189 Columbia St. 4-R, p. 5.

190 RESA/NGS Parties St. 1-SR, p. 3.

191 RESA/NGS Parties' St. 1, p. 16.

their NGSs in order to purchase carbon neutral products.[192] Columbia asserts that the RESA/NGS Parties' allegations regarding the GPR's impacts on suppliers and the competitive retail market are purely speculative and are not supported by substantial evidence, and accordingly these claims should be rejected.[193] Specifically, Columbia states there is no evidence to support the RESA/NGS Parties' claim that the GPR will harm suppliers by causing more customers to elect default service. Further, Columbia states there is no evidence to suggest that the existence of the GPR would cause a customer to elect default service when it otherwise would have chosen to shop with an NGS, especially when the same or similar products are available from NGSs.[194] As explained by Columbia witness Evans, other public utilities have existing programs similar to the GPR, and NGSs continue to operate in those territories.[195] Columbia MB at 16-17.

Finally, the RESA/NGS Parties argue that no market failure has occurred that would warrant the GPR.[196] Columbia asserts this argument is based on the erroneous premise that an NGDC may offer products that are associated with emissions reductions only if those products are not effectively being offered by NGSs in the competitive retail market. A "market failure" does not need to occur in order for Columbia to offer products that are designed to offset emissions associated with natural gas usage. Columbia asserts it is the NGSs' proposal that would negatively impact competition by allowing NGSs to assert exclusivity over offering any type of emissions reducing product to customers and excluding NGDCs from being able to offer these products to default supply service customers.[197] Columbia MB at 17.

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192 RESA/NGS Parties' St. 1, p. 17.

193 *See, e.g., Cuthbert v. City of Phila*., 417 Pa. 610, 209 A.2d 261 (1965); *B & K Inc. v. Pa. Dep't of Highways*, 159 A.2d 206 (Pa. 1960) (substantial evidence, not mere speculation is required to prove a party's claims.)

194 RESA/NGS Parties' St. 1, pp. 7, 9.

195 Columbia St. 1-R, p. 11; Columbia St. 1-RJ, p. 8.

196 RESA/NGS Parties' St. 1, p. 8.

197 Columbia St. 1-R, p. 13.

The OCA's position is that optional products are "assumed to be in the purview of the retail natural gas market" and, absent a legislative mandate to offer renewable energy products, it is not appropriate for Columbia to offer these optional products.[198] Columbia states that, according to the OCA's rationale, neither NGDCs or NGSs should be able to offer renewable natural gas attributes or carbon offsets as an optional product because there is no legal mandate to provide such a product. Yet, Columbia notes, RESA/NGS Parties' witness Holtz testified that carbon offset products are currently being offered by NGSs in the competitive retail market.[199] Columbia avers there is no reason to require a legal mandate before Columbia is permitted to offer the same or similar products as NGSs are currently offering customers, especially when those products provide a benefit to customers. The Commission's regulations acknowledge that non-basic services may be provided by NGDCs.[200] Columbia has historically provided services that meet customer needs regardless of whether it was mandated to do so.[201] Columbia MB at 18.

Columbia states it is proposing the GPR as an optional, non-basic product that would be included as a separate line item on the utility bill.[202] The RESA/NGS Parties criticize Columbia's proposed billing for the GPR because, according to the RESA/NGS Parties, NGSs do not have the ability to include charges for similar non-basic products on the consolidated utility bill.[203] Columbia argues the manner in which Columbia proposes to bill for the Green Path Rider complies with the Public Utility Code and all applicable Commission regulations and orders. Therefore, the RESA/NGS Parties billing concerns are not a valid basis for rejecting the Green Path Rider. Columbia MB at 18-19.

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198 OCA St. 1, p. 9.

199 RESA/NGS Parties' St. 1, p. 9.

200 *See, e.g.*, 52 Pa. Code §§ 56.2, 56.23, 56.232.

201 Columbia St. 4-R, p. 4.

202 Columbia St. 1, p. 9; *See* 66 Pa.C.S. § 1509 (requiring bill to be itemized to separately show amounts for basic service) and 66 Pa.C.S. § 2205(c) (Bills to retail gas customers shall contain sufficient unbundled charge information to enable the customer to determine the basis for those charges.)

203 RESA/NGS Parties' St. 1, p. 8.

Pursuant to Section 2205(c) of the Public Utility Code, Columbia is responsible for billing each of its retail customers for natural gas distribution service.[204] Subject to the right of a retail customer to elect separate bills from Columbia for natural gas distribution service and from their NGS for natural gas supply service, Columbia will issue a consolidated bill that contains charges for both distribution service and supply service provided by an NGS.[205] Columbia operates a Purchase of Receivables (POR) Program in which Columbia will purchase the accounts receivable from licensed NGSs operating in Columbia's service territory.[206] As required by the Commission's regulations, the accounts receivable purchased under the POR Program must relate to choice residential and small business basic services and cannot include other receivables related to non-basic products and services.[207] Specifically, the Commission's regulations require as follows:

> (a)*Program design.*
>
> (1) An NGDC may purchase accounts receivable from licensed NGSs which operate on the NGDC system and who wish to sell their receivables.
>
> (2) An NGS electing to sell its receivables to an NGDC shall include its accounts receivables related to choice residential and small business basic services in the POR program.
>
> (3) An NGS shall only sell receivables associated with basic services and may not sell other receivables related to products and services sold in relation to basic services or in addition to basic services to the NGDC's POR program. The NGS shall certify that charges do not include receivables for other products or services.

52 Pa. Code § 62.224(a). RESA/NGS Parties' witness Holtz claims that Section 4.13.4.6 of Columbia's tariff is harmful to NGSs because it is more restrictive than the requirements that are

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204 66 Pa.C.S. § 2205(c)(1).

205 66 Pa.C.S. §2205(c)(2)(iii).

206 RESA/NGS Parties' St. 1, p. 8.

207 *See* 52 Pa. Code § 62.224(a)(2), (3).

set forth in the Commission's regulations.[208] Columbia tariff states as follows with respect to Company billing of NGS natural gas supply services:

> The Company will purchase only receivables associated with the NGS's Natural Gas Supply Services charges and no other products or services that may be provided by NGSs. The Natural Gas Supply Services charges eligible under the POR program shall not include any charges associated with the following: termination fees, energy efficiency service or equipment, a non-recurring charge billed by an NGS for calling the NGS call center or negotiating a payment arrangement, security deposits charged by an NGS, other equipment or services provided by an NGS such as heating equipment repairs or maintenance policies or any charges associated with carbon based attributes, including value added green products like carbon attributes.

See Supplement No. 224 to Tariff Gas – Pa. P.U.C. No. 9 Fourth Revised Page No. 247. Columbia argues its tariff is consistent with the Commission's requirement that only charges for basic gas supply service be included in the POR Program. Columbia states that witness Holtz fails to mention in his testimony that the POR Program is completely voluntary and no NGS is required to sell its receivables to Columbia.[209] Therefore, any NGS that does not wish to participate in the POR Program may issue its own bill for supply charges and any charges for non-basic products offered by the NGS. NGSs may offer non-basic products as a bundled rate or as separate line-item charges and bill them to their customers.[210] Columbia states there is nothing about Columbia's billing practices that would prevent an NGS from offering products similar to the GPR and billing for them. Columbia MB at 19-20.

NGDCs may include charges for non-basic products and services as a separate line item on the utility bill so long as they do so in a non-discriminatory manner.[211] The

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[208] RESA/NGS Parties' St. 1, p 12.

[209] Columbia St. 1-R, p. 14; *See Natural Gas Distribution Companies and Promotion of Competitive Retail Markets*, 2011 Pa. PUC LEXIS 678, *2 (Final Rulemaking Order entered Feb. 23, 2011) (noting that POR programs are voluntary).

[210] Columbia St. 4-R, p. 7.

[211] *See* 66 Pa.C.S. §§ 1502, 2203 (prohibiting discrimination and anti-competitive practices).

RESA/NGS Parties claim that Columbia's proposal to bill for the GPR as a separate line item on the utility bill is problematic because NGSs cannot include charges for non-basic services provided by NGSs on the consolidated utility bill.[212] As support for its argument, the RESA/NGS Parties cite a prior case involving Columbia in which the Commission determined that if Columbia bills for non-basic service on behalf of a third party, it must provide the same option to all third parties.[213] In that case, Columbia was including on the utility bill charges for non-basic warranty services provided by two former Columbia affiliates but did not offer its billing services for non-basic products to any other third parties.[214] Columbia argues the prior Columbia case is distinguishable from the present case because the GPR is being provided by and billed by Columbia, whereas the non-basic services in the prior Columbia case were being provided by third parties but billed by Columbia.[215] Unlike in the prior Columbia case, here Columbia is proposing to include charges for its own optional service on the utility bill but is not opening the billing function to any third party for non-basic services. Therefore, Columbia concludes, there is no different treatment between third parties. Columbia MB at 21.

Following the Commission's decision in the prior Columbia case, the Commission considered whether a utility could bill for its own non-commodity products while refusing to bill for similar non-commodity products offered by suppliers.[216] In *Interstate Gas Supply*, the Commission determined that the Public Utility Code does not prohibit a utility from affording itself a preference or advantage in the provision of billing services, but instead prohibits discrimination where a utility provides the service to another.[217] Thus, the Commission concluded that it is permissible for a utility to bill for its own non-basic products and services

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212 RESA/NGS Parties' St. 1, p. 12.

213 *See Pa. PUC, et al. v. Columbia Gas of Pa., Inc.*, Docket No. R-2018-2647577 (Opinion and Order entered Dec. 6, 2018) *(Columbia Gas 2018*).

214 *Id.*

215 Columbia St. No. 4-R, p. 7.

216 *See Interstate Gas Supply, Inc. et al. v. Metro. Edison Co., Pa. Elec. Co., Pa. Power Co. and West Penn Power Co.*, Docket Nos. C-2019-3013805, *et al.*, 2021 Pa. PUC LEXIS 357 (Order entered Aug. 26, 2021) (reconsideration denied Apr. 14, 2022) (*Interstate Gas Supply*).

217 *Id.* at *28.

without opening the billing function to the non-basic products offered by a third party, including an NGS, so long as the utility does not provide the billing function for non-basic products to any third party.[218] Columbia MB at 21-22.

Like in *Interstate Gas Supply*, Columbia argues it proposes to bill for the GPR, which is a non-basic product provided by Columbia, and will not open the billing function to any third party providing non-basic products. Therefore, Columbia's proposed billing for the GPR would not result in discrimination to another because Columbia is the only entity providing the optional product under the GPR and Columbia will not bill for any non-basic product other than that which Columbia itself provides. Columbia MB at 22.

The RESA/NGS Parties contend that by offering the GPR as a non-basic service, Columbia appears to be attempting to "skirt the Commission's Standards of Conduct Regulations."[219] Columbia states the RESA/NGS Parties' allegation is incorrect. The Commission's regulations, not Columbia, define what is considered a non-basic service. Moreover, Columbia does not have an affiliated NGDC, and therefore the Standards of Conduct do not apply to Columbia's Green Path Rider. Columbia MB at 22-23.

Columbia asserts that, as an initial matter, the RESA/NGS Parties' argument is based on the incorrect premise that Columbia can choose whether a particular service is offered as a non-basic service.[220] The Commission's regulations specifically define what is a non-basic service. A non-basic service is defined as:

> *Nonbasic services*—Optional recurring services which are distinctly separate and clearly not required for the physical delivery of public utility service or default service.

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218 *Id.* at *28-29.

219 RESA/NGS Parties' St. 1, p. 9.

220 Columbia St. 4-R, pp. 5-6.

A basic service is defined as:

> *Basic services*—
>
> (i) Services necessary for the physical delivery of residential public utility service.
> (ii) The term also includes default service as defined in this section.[221]

Columbia argues that the GPR does not meet the definition of a basic service because it is not required for the physical delivery of natural gas service.[222] Instead, the GPR meets the definition of a non-basic service because it provides an optional service for offsetting carbon emission associated with natural gas usage in which the renewable natural gas attributes and carbon offsets are procured separately from natural gas supply.[223] Therefore, to classify the GPR as basic utility service when it is clearly a non-basic service would violate the Commission's regulations. Columbia MB at 23.

Columbia notes the Commission's Standards of Conduct are part of the Commission's Natural Gas Customer Choice regulations and govern the relationships and transactions between NGDCs, their affiliated natural gas suppliers, and non-affiliated natural gas suppliers.[224] The Standards of Conduct set forth several requirements for NGDCs with affiliated NGSs.[225] An affiliated NGS is defined as:

> *Affiliated NGS*—
>
> (i) An NGS engaging in marketing activities related to natural gas supply services by the marketing division or marketing operation of an NGDC.
> (ii) The term does not include a utility's marketing department or division to the extent that it informs existing or prospective

221 52 Pa. Code § 56.2.

222 Columbia St. 2, p. 6.

223 Columbia St. 1, p. 3.

224 *See* 52 Pa. Code § 62.142. *See also* 66 Pa.C.S. § 2209.

225 *See* 52 Pa. Code § 62.141, *et seq.*

> customers of the availability and price of the regulated sales service that utility furnishes in its role as supplier of last resort.[226]

Columbia asserts it does not have an affiliate engaging in marketing activities related to natural gas supply services.[227] Columbia itself, not an affiliate of Columbia, is offering the GPR.[228] Consequently, Columbia asserts that the Commission's Standard of Conduct regulations do not apply here. Columbia MB at 23-24.

In its reply brief, Columbia states there is no evidence to support RESA/NGS Parties' claim that it should be assumed that Columbia intends to manage the GPR pilot program using its existing operations and maintenance structure, or stated differently – that a portion of the costs to manage the GPR will be recovered through base rates. The RESA/NGS Parties cite to the Company's initial GPR filing in support of making this claim, but Columbia states that filing does not contain any information that can reasonably be used to support this claim. The RESA/NGS Parties also cite to its witness' direct testimony and Columbia witness Evans' direct testimony, but Columbia claims that if one reviews the portions of testimonies cited, these testimonies do not offer any factual support for this claim either. In fact, Columbia states, witness Holtz's direct testimony only offers speculation, as is evident from his statement that "it seems improbable that Columbia will recover all the internal overheads associated with this product."[229] Columbia asserts all parties to this proceeding were afforded ample opportunity to conduct discovery,[230] and all active parties including RESA/NGS Parties issued data requests, yet RESA/NGS Parties cannot support its claim by citing to any record evidence. The Company states that, in its initial filing and throughout this proceeding, it has presented the anticipated costs associated with implementation of the GPR, along with a proposal to recover those costs. Columbia submits that to speculate that the Company intends to do anything other than what it

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226 52 Pa. Code § 62.141.

227 Columbia St. 4-R, p. 6.

228 Columbia St. 1-R, p. 6.

229 RESA/NGS Parties St. 1, p. 6.

230 From the time that the Green Path Rider was filed until the February 15, 2023 evidentiary hearing, parties had more than nine (9) months to conduct discovery.

has stated in this proceeding, without support, is irresponsible and inappropriate and, as such, RESA/NGS Parties claim should be rejected. Columbia RB at 11-12.

B. I&E's Position

I&E did not file a main brief or reply brief addressing competitive market issues. As explained below, I&E was a signatory to the JPNUS and provided a statement in support of the JPNUS.

C. OCA's Position

The OCA urges the Commission to reject Columbia's proposed GPR that would add an optional, non-basic service to the Company's distribution service tariff.[231] OCA witness Alexander evaluated the design, purpose, and elements of the Company's proposed service for distribution customers and found it is more related to natural gas supply than distribution service.[232] OCA MB at 19. The OCA also states that the Commission should not accept Columbia's position that the GPR is focused on default service customers, with no intent to compete with NGSs or attract more customers to default service. OCA RB at 9.

The OCA argues that, essentially, the Company's GPR program and NCSC contract would impact the content of Columbia's natural gas supply service or at least that is what consumers would reasonably understand it to impact.[233] The fact that the Company modified its cost recovery proposal from base rate recovery from all distribution customers to those customers who would choose to purchase the optional service under the GPR does not resolve the mismatch of service type.[234] OCA MB at 19.

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231 OCA St. 1, pp. 5, 9; OCA St. 1SR, p. 8.

232 OCA St. 1, p. 9.

233 OCA St. 1-R, p. 2; OCA St. 1-SR, pp. 5-6.

234 OCA St. 1-SR, p. 7.

The OCA states that Columbia's proposal should properly be viewed as a competitive product on the commodity and natural gas supply service side of the ledger, not a distribution company product.[235] The Company's proposal would include annual changes in the rate charged through the GPR, based upon the terms of the NCSC contract. The Company has requested approval of the distribution tariff and rider mechanism now, not a particular "rate."[236] Based upon the Company's proposal, even as modified and clarified by the Company's rebuttal and under cross-examination, the OCA is opposed to the Company's proposal. OCA MB at 19.

OCA witness Alexander considered the alternatives or modifications suggested by I&E and RESA/NGS.[237] I&E witness Ethan Cline proposed that Columbia's GPR program be addressed as part of the Company's purchased gas cost proceedings. The OCA states that since the Company's proposed GPR tariff is presented as an optional distribution service tariff, the scope of this case does not support a decision on the merits of the I&E proposal.[238] The OCA agrees with RESA/NGS witness Holtz's recommendation that Columbia withdraw the proposed GPR tariff.[239] However, OCA witness Alexander expressed concern that RESA/NGS' request for an affirmative ruling in this proceeding concerning the scope of what gas supply services may be recovered by NGS through Columbia's POR program strayed too far from the basic issue presented by the Company's proposed GPR tariff.[240] OCA MB 19-20.

The OCA agrees with some parties that the proposed Company's GPR program raises concerns about competition when correctly viewed as concerning a commodity and natural gas supply service. The OCA asserts that the Company's position that it is allowed to offer optional services does not change the nature of its offering as more related to gas supply

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235 OCA St. 1-R, p. 4.

236 OCA St. 1-SR, p. 8.

237 OCA St. 1-R, p. 4.

238 OCA St. 1-R, p. 4.

239 OCA St. 1-R, pp. 2-3, 4.

240 OCA St. 1-R, pp. 3-5.

service.[241] During cross-examination, Company witness Evans explained how a Columbia customer could compare the bundled price of RNG attributes and carbon offsets reflected in the GPR optional service with offsets offered by someone else.[242] The OCA asserts this would be a confusing, tedious, and arduous process. It would in no way be akin to comparing other competitive services such as commodity costs which are readily available on websites such as www.pagasswitch.com. OCA MB at 20.

The OCA states that the Company's citation to Section 1509, concerning the allowance of line-item charges for non-basic, optional services, as the justification for approval of this particular tariff and pilot offering is misplaced. The OCA asserts that, even in the case of competitive utilities, Section 1509 does not provide grounds for the "the indiscriminate use of multiple line-item charges[.]"[243] The Commission will look for "a specific regulatory mandate" or other reason before approving a line-item addition which could otherwise complicate the bill or cause confusion as to the true cost of service purchased.[244] OCA RB at 8-9.

The OCA states that the Company's second or alternative position that its GPR will provide beneficial competition for NGS service offerings is also not supported by the record. The OCA asserts that the steps described by Company witness Evans during cross-examination make clear that Columbia gas supply customers would face challenges to make comparisons between the value of the components of Columbia's proposed bundle of RNG attributes and carbon offsets with alternatives.[245] The OCA argues that the potential for customer confusion, should the Commission allow Columbia to offer this optional gas supply service outweighs Columbia's claim of competitive market benefits. OCA RB at 10.

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241 OCA St. 1-SR, pp. 7-8.

242 Tr. 84-85.

243 *PAETEC Commc'ns, Inc. Supplement No. 49 to Tariff Tel.- PA P.U.C. No. 3*, Docket No. R-2022-3031945, at 6 (Opinion and Order Nov. 10, 2022) (*PAETEC*).

244 *PAETEC* at 6.

245 S*ee*, *PAETEC* at 6-7 (The proposed tariff and line-item charge assumed "an unreasonable level of sophistication and knowledge" by the customer).

The OCA states that, as identified by OCA witness Alexander, there are larger policy and competitive market structural questions to be examined and resolved first.[246] Unlike the electric supply market, there is no legislative mandate at present that natural gas supply sales conform to a renewable energy directive.[247] OCA witness Alexander was not swayed by the Company's reference to the use of Renewable Energy Certificates or other analogy of the electricity market with the Company's proposal.[248] The Company's proposal does not track to Alternative Energy Portfolio Standards Act requirement that solar alternative energy credits (AECs) have a Pennsylvania generation nexus.[249] The Company has not shown that its proposed GPR tariffed as a distribution service advances Pennsylvania policy specific to the division between natural gas distribution service and natural gas supply. OCA MB at 20-21; *see also* OCA RB at 9-11.

The OCA urges the Commission to deny the Company's proposed GPR distribution tariff. The OCA asserts that whether the inclusion of carbon offsets and RNG products should be considered as part of a NGDC's Purchased Gas Cost rate raised generic questions and the interests of a larger group of stakeholders.[250] Similarly, the broad question of whether NGSs should be able to request inclusion in an NDGC's POR program of the NGS's sale of similar products offering RNG attributes or carbon offsets has not been presented and resolved, such that there is Commission policy to guide this case.[251] The OCA states the Company's intent to implement an optional distribution service tariff and five-year pilot tied to the NCSC five-year contract may advance the Company's interests, but it is not in the public interest. Furthermore, the potential for competitive harms and absence of legislative or regulatory policy guideposts to protect the interests of consumers and market participants weighs

246 OCA St. 1, p. 9.

247 OCA St. 1, p. 9.

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248 OCA St. 1-SR, pp. 5-6.

249 OCA St. 1-SR, p. 6.

250 OCA St. 1-SR, pp. 8-9.

251 OCA St. 1-SR, pp. 8-9.

against approval of this optional service to sell Columbia customers a bundle of commodity service offsets. OCA MB at 21.

D. OSBA's Position

The OSBA did not file a main brief or reply brief addressing competitive market issues. As explained below, the OSBA was a signatory to the JPNUS and provided a statement in support of the JPNUS.

E. RESA/NGS Parties' Position

The RESA/NGS Parties state Columbia has a natural monopoly in the distribution of natural gas.[252] The RESA/NGS Parties also state Columbia has a tremendous advantage in the sale of natural gas through default service, because all customers start, and most remain, on default service.[253] At the moment, the market for carbon offsets and RNG attributes is competitive, but nascent. The RESA/NGS Parties assert that proposing that the monopoly delivery/sales entity engage in the sale of these products – as a tariffed product – is intended to exploit those monopoly positions to drive competition from the market or prevent additional competition in the first place. The RESA/NGS Parties state that Columbia's plan is even more sinister than simply exploiting its obvious advantages, and also includes pricing the product below the actual cost of providing it and passing on those costs to other customers. As the RESA/NGS Parties' witness stated, customer inertia (the tendency to remain on default service) is already a significant barrier for suppliers trying to provide energy supply options for customers. By offering the program at the cost of the offsets, but without including Columbia's overheads and other indirect costs of the program, Columbia will make it even more difficult for suppliers to win customers and requiring that customers remain as default customers to receive the product makes it worse.[254] RESA/NGS MB at 13.

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252 RESA/NGS Parties' St. 1, p. 8:2-3.

253 *Id*. at lines 3-4.

254 RESA/NGS Parties' St. 1, pp. 8:1-9:2.

The RESA/NGS Parties state that, as if Columbia's intention to exploit its obvious competitive advantages were not enough, Columbia also has another advantage that is less obvious. By virtue of its role as the distribution company, Columbia is the default biller.[255] The RESA/NGS Parties state that, in a practical sense, this means that if a customer desires to receive a single bill for all their natural gas related services, which would include carbon offsets and RNG attributes associated with their natural gas consumption, along with their distribution charges and their commodity charges, Columbia is the only entity that is permitted to issue such a consolidated bill. The RESA/NGS Parties argue that, coupled with the fact that Columbia's tariff appears to prohibit NGSs from including charges for carbon neutral products in customer balances collected via POR, and that Columbia intends to recover the GPR charges as a non-commodity charge on the consolidated bill (an option Columbia refuses to make available to suppliers) suppliers who offer these products in Columbia's service territory are at a severe competitive disadvantage. Suppliers are required to send their own bill for the products, which is an arrangement that customers do not want.[256] RESA/NGS MB at 13-14; *see also* RESA/NGS RB at 4.

The Commission has previously held that Columbia's provision of billing service for non-commodity products falls under the definition of "service" in Section 102 of the Public Utility Code, 66 Pa.C.S. § 102.[257] The Commission also held that Columbia's provision of such services is regulated by Section 2203(4) of the Code and that Columbia must offer such services, i.e., billing for non-commodity products, in a non-discriminatory fashion under the mantel of providing equal access to the distribution system.[258] The RESA/NGS Parties state that, while the Commission has since sought to walk back its *Columbia Gas 2018* decision, as applied to the electric industry, in doing so it has distinguished that decision in a manner that requires its application here.[259] Columbia cannot provide billing for its provision of GPR without providing

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255 66 Pa.C.S. § 2205(c).

256 RESA/NGS Parties' St. 1, pp. 11:10-12:14.

257 *Columbia Gas 2018,* p.44.

258 *Columbia Gas 2018* at 47-49.

259 *Interstate Gas Supply,* pp. 23-28.

the same billing for suppliers on equal terms. For all the reasons stated herein, it is the RESA/NGS Parties' position that the provision of the GPR product is itself anti-competitive and should not be permitted, and Columbia's employing a blatantly anti-competitive approach to billing this product makes the detrimental nature of the GPR even more apparent. RESA/NGS MB at 14; *see also* RESA/NGS RB at 4-5.

The RESA/NGS Parties state that one of the goals of opening the market for natural gas to competition was to allow suppliers to bring new and innovative products to market. The General Assembly recognized that the NGDCs have a natural monopoly in the distribution market but still allowed them to participate in bringing new products, but also made it clear, through requiring Standards of Conduct, that those competitive services were not to be provided as part of the utility function. To do otherwise is to invite the sorts of behavior Columbia proposes here. The RESA/NGS Parties conclude by stating that the Commission should not endorse utilities entering the market with clearly competitive products that leverage their monopoly advantage to the detriment of competitors and captive ratepayers. RESA/NGS MB at 15.

In their Reply Brief, the RESA/NGS Parties state that, while it is true that they do assert that competitive products such as the GPR should be the domain of the competitive market, it is the manner in which Columbia proposed the GPR that is offensive as much as the market power behind it. However, the RESA/NGS Parties argue, it is the form of the program as proposed which makes it illegal. That is, if Columbia were required to engage all the competitive safeguards that the General Assembly envisioned when it authorized NGDCs to provide competitive products, it could potentially provide the GPR with an acceptable level of competitive harm, but only with the *quid pro quo* of applying the competitive safeguards. The RESA/NGS Parties state that statutes are to be read in *pari materia,* which means that the requirement for the Standards of Conduct must be read to be consistent with the ability of NGDCs to provide new competitive products. For Columbia to assert that it may offer competitive products and at the same time argue that it should not be subject to the Standards of

Conduct, is contrary to the law and must be rejected.[260] The RESA/NGS Parties assert that Columbia freely admits that it desires to compete with NGSs in offering the GPR, but that Columbia cannot have it both ways. If it wants to compete, the RESA/NGS Parties assert that Columbia can only do so with the application of the competitive safeguards that are the Standards of Conduct. RESA/NGS Parties RB at 5-6.

The RESA/NGS Parties state that Columbia's attempt to refute the supplier's argument that Columbia will seek to convert supplier customers into default service customers by offering them the GPR, which will only be available to default service customers, by suggesting that all such products should be available to all customers is indicative of its callous disregard for the facts. The RESA/NGS Parties assert that Columbia alone can offer the package to customers: gas, delivery and carbon offsets, all on the same bill, and it appears to be counting on that combination for part of its advantage. RESA/NGS Parties RB at 6.

Columbia also addresses the supplier arguments regarding the unequal billing relationship between Columbia and suppliers on its system. Columbia plans to use a utility asset,[261] its billing system that (except for a minor $186,000 upgrade) is paid-for by all ratepayers, to bill for a competitive service – the GPR. The RESA/NGS Parties state that, despite this clear violation of the Standards of Conduct, Columbia boldly states that the suppliers are free to not participate in POR and simply bill for carbon offset charges and natural gas commodity on their own – stating that "there is nothing that would prevent an NGS from offering products similar to the Green Path Rider and billing for them."[262] The RESA/NGS Parties argue the ability to use a billing system that ratepayers paid-for is an absolute advantage to Columbia and that ability is also an obstacle to suppliers to provide the same types of products, because there is a clear disparity in customer perception of a consolidated bill listing all

[260] 1 Pa.C.S. § 1932. ("(a) Statutes or parts of statutes are in *pari materia* when they relate to the same persons or things or to the same class of persons or things. (b) Statutes in *pari materia* shall be construed together, if possible, as one statute.")

[261] The RESA/NGS Parties also assert that Columbia intends to use other assets and personnel to perform other functions for the GPR.

[262] Columbia MB at 20.

gas-related charges versus receiving multiple bills for the same service.[263] The RESA/NGS Parties submit that Columbia's proposed billing scheme is anything but non-discriminatory, as discussed herein and should not be approved. RESA/NGS Parties RB at 6-7.

Finally, the RESA/NGS Parties note that Columbia seeks to draw a distinction between what it proposes for the GPR and the requirements for the application of the Standards of Conduct. Columbia claims that because it is not offering the GPR through an affiliate, and because the product is being offered as a non-basic rather than basic service product, the Standards of Conduct do not apply. The RESA/NGS Parties state Columbia's argument is simply incorrect. It is the fact that the GPR is a competitive product, not that it will be billed as a non-basic product, that is determinative of the application of the Standards of Conduct. The RESA/NGS Parties assert Columbia admits that it intends to compete with suppliers in offering the GPR. The RESA/NGS Parties also state that while it is true that Columbia does not propose to use an affiliate to market the GPR, it is clearly marketing a competitive product with marketing personnel (i.e., a "marketing operation") and the Standards of Conduct, by their own definition, apply.[264] The RESA/NGS Parties assert that the Commonwealth Court has previously determined that the standards do apply to an NGDC that provides new products and that the test is whether the product is intended to compete, which in this case Columbia admits.[265] The RESA/NGS Parties conclude that the GPR is a competitive product, it is not natural gas supply but is related to natural gas supply and is clearly intended to compete with natural gas suppliers on Columbia's system. RESA/NGS Parties RB at 7.

F. PSU's Position

PSU did not file a main brief or reply brief addressing competitive market issues.

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263 RESA/NGS Parties' St. 1, p. 11:10-22.

264 52 Pa. Code § 62.141.

265 *Dominion Retail.*

G. CAUSE-PA's Position

CAUSE-PA did not file a main brief or reply brief addressing competitive market issues.

IX. OTHER ISSUES

A. Columbia's Position

OCA witness Alexander argues that Columbia is intentionally misleading its customers about the GPR's design and its environmental impact.[266] Specifically, witness Alexander states that a "program marketed to Pennsylvania customers should not mislead customers about the impact of the program on natural gas emissions in Pennsylvania."[267] Witness Alexander also states that, "purchasing RNG or carbon offsets in jurisdictions that do not provide any of the natural gas service delivered to Pennsylvania customers is misleading, in her opinion."[268] Columbia asserts that witness Alexander's claim that it will mislead its customers is unfounded. Columbia MB at 24.

Columbia argues that OCA witness Alexander's criticism ignores that using RNG environmental attributes and carbon offsets is an established way to use and track renewable energy. Addressing RNG environmental attributes first, when RNG environmental attributes are purchased, a physical supply of gas is still required.[269] While the physical RNG might not be connected directly to Columbia's system, the RNG must be put into the natural gas system somewhere. Columbia avers this is no different than a natural gas well producing gas in Texas. If the company would buy that gas in Texas, the molecules from Texas might not make it to Pennsylvania, yet Columbia would still have purchased that gas and received gas in

266 OCA St. 1, pp. 5-7.

267 OCA St. 1, pp. 4, 6.

268 OCA St. 1-SR, p. 5.

269 Columbia St. 1-R, p. 17.

Pennsylvania. There is no way to track where the molecules actually came from, yet in this example it would be acknowledged that the gas came from Texas. Columbia argues RNG is no different, yet it does have both a value for the heat content of the gas and a value for its environmental attributes. While it is impossible to show where the actual RNG molecules go once they are in a pipeline, the tracking of the RNG environmental attributes ensures that only Columbia receives credit for the environmental qualities of the RNG, which in turn ensures that emissions from using that amount of natural gas are indeed offset.[270] Columbia states that, because of this, it is commonplace to use RNG environmental attributes for natural gas. Columbia MB at 25.

Regarding carbon offsets, Columbia states when carbon offsets are used correctly and from a verified source, they can be a way to reduce emissions. The Company's third-party supplier will only provide offsets from certified sources. These certifications will show that the offsets provided are: real (that the project actually exists), measurable (it is possible to measure the amount of carbon reduced), additional (they would not have happened without the project) and permanent (the reduction is not temporary).[271] Columbia states it designed the pilot program to use a combination of RNG environmental attributes and carbon offsets due to the high price of RNG. In order to keep the program affordable, it was necessary to limit the RNG environmental attributes to a small percentage for the initial pilot period.[272] Regarding witness Alexander's claim that Columbia will not disclose to customers that the GPR pilot program uses RNG environmental attributes and carbon offsets, instead of actual RNG supply, Columbia states there is no support for this claim. Columbia has not prepared or released any materials to customers, and has not made any statements that support OCA witness Alexander's comments on lack of transparency.[273] Columbia states transparency regarding all aspects of the program is of utmost importance. This is demonstrated by Columbia's commitment to post information on the RNG environmental attributes and carbon offsets on the Company's website, including source

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[270] Columbia St. 1-R, p. 17.

[271] Columbia St. 1-R, p. 18.

[272] Columbia St. 1-R, p. 18.

[273] Columbia St. 1-R, p. 23.

location.[274] Columbia asserts this provides the greatest level of transparency to customers. Columbia MB at 25-26.

Lastly, Columbia states that it is important to note that OCA witness Alexander specifically states that her concern that Columbia may mislead its customers was "heightened" by the fact that Columbia's RNG webpage describes the GPR without noting that the GPR consists of 5% RNG environmental attributes and 95% carbon offsets.[275] However, the Company's website only provides a webpage dedicated to RNG, which was created to inform customers about RNG and to let RNG producers know what is required if they would like to request an interconnect with the Company.[276] This web page however, is not related to the GPR pilot program, nor does it make any mention of the GPR. Being that Witness Alexander heightened concern stems from her misunderstanding the webpage, no weight should be given to this portion of her testimony. Columbia MB at 26.

B. I&E's Position

I&E did not file a main brief or reply brief addressing other issues. As explained below, I&E was a signatory to the JPNUS and provided a statement in support of the JPNUS.

C. OCA's Position

The OCA asserts that Columbia's "Other Issues" section mischaracterizes OCA witness Alexander's testimony by claiming that she alleged that Columbia is intentionally misleading its customers about the program.[277] OCA witness Alexander's testimony noted that even though carbon emissions may be reduced or offset somewhere in the world, it is not

[274] Columbia St. 1-R, pp. 4-5, 24.

[275] OCA St. 1, p. 7.

[276] Columbia St. 1-R, pp. 7-8.

[277] The OCA notes that Columbia cites to OCA St. 1, pages 4 through 7 in claiming that OCA witness Alexander testified that Columbia is intentionally misleading its customers. The OCA asserts that at no point in OCA witness Alexander's testimony, including the pages cited, does OCA witness Alexander testify that Columbia is intentionally misleading customers.

appropriate for Columbia to market an on-bill program for its customers under a tariff that has the very real potential to confuse and mislead consumers.[278] The OCA asserts no customer education or marketing material was provided by Columbia for OCA witness Alexander to analyze and claiming that OCA witness Alexander is alleging that Columbia is intentionally misleading customers is a straw man and is not supported by the record. OCA RB at 11.

The OCA asserts that Columbia's unsupported claim that OCA witness Alexander alleged intentional wrongdoing illustrates the importance of incorporating the input of the Commission and all interested stakeholders into the educational, marketing, and disclosure material for this program, which was not done here. The OCA states Columbia's public notice for this filing reflects a misleading presentation of the proposal.[279] Columbia's public notice for the GPR program states as follows:

> Under Columbia's proposed Green Path Rider, Columbia will purchase renewable natural gas ("RNG") environmental attributes and carbon offsets to **reduce a participating customer's emissions associated with their natural gas usage**.[280][281]

The OCA argues this notice is ambiguous at best because it could lead a reasonable consumer to believe that participating in this program would reduce the customer's emissions. The OCA asserts that there is no actual reduction of a participating customer's emissions associated with their natural gas usage as a result of the GPR program.[282] OCA RB at 11-12.

Columbia also alleges that OCA witness Alexander was confused by Columbia's RNG webpage, which is unrelated to the GPR program, and that an unidentified portion of OCA

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278 *See* OCA St. 1, pp. 4-7.

279 OCA St. 1-SR, p. 8.

280 https://www.columbiagaspa.com/docs/librariesprovider14/rates-and-tariffs/notice-of-proposed-tariff-modification.pdf. (Emphasis added).

281 OCA St. 1-SR at 6.

282 OCA St. 1-R, p. 4.

witness Alexander's testimony should be given no weight. The OCA states no such confusion exists and OCA witness Alexander specifically addressed this allegation by stating as follows in her surrebuttal testimony:

> Q. PLEASE COMMENT ON MR EVANS' ALLEGATION THAT YOU WERE CONFUSED ABOUT THE WEBSITE ASSOCIATED WITH THIS PILOT.
>
> A. I was not confused. I am aware that Columbia's web portal on "Renewable Natural Gas and How Does it Work" was not intended to be the proposed pilot's web portal. However, my concern is that Columbia Gas is promoting RNG to its customers when its proposed Green Path tariff would only provide 5% RNG to offset natural gas carbon emissions.[283]

OCA states that witness Alexander clearly testified that she was not confused by Columbia's website and that Columbia is both promoting RNG through its website and hopes to soon promote the GPR. The OCA states it would be very reasonable for a consumer to confuse all of this information and believe that they are buying RNG through the GPR, particularly when Columbia has come forward with no consumer education materials demonstrating how they will avoid confusion by consumers. OCA RB at 12-13.

The OCA states that Columbia also falsely claims that OCA witness Alexander "ignores that using RNG environmental attributes and carbon offsets is an established way to use and track renewable energy."[284] The OCA states that witness Alexander never testified that using RNG attributes and carbon offsets is not an established way to use and track renewable energy. Instead, the OCA claims witness Alexander expressed a concern that Columbia is promoting RNG to its customers while the proposed GPR program only provides 5% RNG attributes (which differs from RNG delivered into the Company's natural gas distribution system) to offset natural gas carbon emissions.[285] OCA RB at 13.

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283 OCA St. 1-SR at 7.

284 Columbia MB at 25.

285 OCA St. 1-SR, p. 7.

The OCA states that it never argued that RNG must be physically delivered to specific customers that are participating in the GPR program. Instead, OCA witness Alexander testified to the fact that "[u]nder the Green Path Rider, Columbia will not purchase actual RNG supply, rather the Company proposes to purchase the 'environmental attributes' associated with the physical gas delivered."[286] The OCA argues the reality is that there is no actual RNG supply that is added to Columbia's natural gas distribution system because of the proposed program. Indeed, the OCA states, there is no basis in the record for concluding that this program even affects the emissions associated with the supply portfolio serving Columbia customers.[287] The OCA states that somewhere RNG attributes are bought; somewhere carbon offsets are bought but consumers are paying for this in Pennsylvania on their regulated gas utility bill. The OCA states the crux of the problem is there is nothing in the record demonstrating that Pennsylvania consumers will see reductions in greenhouse gas emissions through RNG attributes or offsets. OCA RB at 13-14.

The OCA concludes that, if Columbia's GPR program purchased actual RNG supply, which it does not, then Columbia's argument regarding the paths of molecules would be valid. The OCA states that, as it stands, Columbia's argument is a mischaracterization of the OCA's position. Purchasing RNG attributes or carbon offsets in other jurisdictions and for non-gas related products that do not provide any of the natural gas service delivered to Pennsylvania customers is not in the public interest for Pennsylvania consumers as a tariffed rider billed on a regulated utility's bill. OCA RB at 14.

D. OSBA's Position

The OSBA did not file a main brief or reply brief addressing other issues. As explained below, the OSBA was a signatory to the JPNUS and provided a statement in support of the JPNUS.

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[286] OCA St. 1, p. 3.

[287] OCA St. 1, pp. 4-5.

E. RESA/NGS Parties' Position

The RESA/NGS Parties did not file a main brief or reply brief addressing other issues.

F. PSU's Position

PSU did not file a main brief or reply brief addressing other issues.

G. CAUSE-PA's Position

CAUSE-PA did not file a main brief or reply brief addressing other issues.

X. TERMS AND CONDITIONS OF THE NON-UNANIMOUS SETTLEMENT

On March 22, 2023, Columbia, I&E, and the OSBA (Joint Petitioners) submitted the JPNUS. The Joint Petitioners aver the following terms of the JPNUS reflect a carefully balanced compromise of the interests of the Joint Petitioners in this proceeding. The Joint Petitioners agree that the JPNUS is in the public interest. The Joint Petitioners respectfully request that the JPNUS be approved subject to the terms and conditions of the JPNUS specified below:[288]

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

[288] For ease of reference, the essential terms of the JPNUS, including footnotes, have been adopted verbatim and using the same paragraph numbering as found in the original. Although no substantive modifications were made, the formatting, including footnote numbers, may have been slightly modified consistent with the formatting and footnote numbering found within this recommended decision.

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.

JPNUS at 5-7.

The Joint Petitioners state that the JPNUS 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. Joint Petitioners submitted, along with the JPNUS, their respective Statements in Support setting forth the basis upon which each believes the JPNUS to be fair, just, and reasonable and therefore in the public interest. The Joint Petitioners' Statements in Support are attached to the JPNUS as Appendices "A" through "C." JPNUS at 8.

The Joint Petitioners assert that the JPNUS is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission

modifies the JPNUS, then any Joint Petitioner may elect to withdraw from this JPNUS and may proceed with litigation and, in such event, this JPNUS 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 business days after the entry of any Order modifying the JPNUS. JPNUS at 8.

The Joint Petitioners also assert that the JPNUS and its terms and conditions may not be cited as precedent in any future proceeding, except to the extent required to implement the JPNUS. The Commission's approval of the JPNUS 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 JPNUS in these and future proceedings involving Columbia. The Joint Petitioners also state it is understood and agreed among the Joint Petitioners that the JPNUS 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. JPNUS at 8-9.

The Joint Petitioners further state that the JPNUS 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 JPNUS is the product of compromise between and among the Joint Petitioners. This JPNUS 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 the JPNUS. The JPNUS does not preclude the Joint Petitioners from taking other positions in proceedings involving other public utilities in any other proceeding. JPNUS at 9.

The Joint Petitioners recognize that the proposed JPNUS does not bind the parties that do not choose to join herein. A copy of the proposed JPNUS and attached Appendices thereto, including Statements in Support, were simultaneously served upon all parties in this proceeding. If the ALJs adopt the JPNUS without modification, the Joint Petitioners waive their individual rights to file exceptions with regard to the JPNUS. Joint Petitioners retained their

rights to file briefs, exceptions and replies to exceptions with respect to the issues that were reserved for litigation. JPNUS at 9.

XI. DISCUSSION OF THE NON-UNANIMOUS SETTLEMENT

A. Columbia's Position

Columbia submitted a Statement in Support of the JPNUS. Columbia avers the JPNUS was achieved only after a comprehensive review and evaluation of the parties' respective positions on the Company's proposed GPR pilot program and only after numerous settlement discussions between the Joint Petitioners. Columbia states the Settlement resolves all issues among the Joint Petitioners in this proceeding,[289] and addresses many of the issues raised by other parties in this proceeding. Columbia argues that the terms and conditions of the proposed GPR pilot program, as modified by the JPNUS, are just and reasonable, and as discussed below, approval of the JPNUS is in the public interest. Accordingly, Columbia respectfully requests that the ALJs recommend approval of, and the Commission approve, the JPNUS without modification. Columbia SIS at 1-2.

Columbia asserts the JPNUS 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 JPNUS fairly balances the interests of the Company and its customers and, therefore, is in the public interest. For the reasons set forth below, Columbia asserts the Settlement is just and reasonable, and in the public interest. Columbia SIS at 3.

Regarding specific settlement terms, Columbia notes that the JPNUS, at paragraph 20, provides that Columbia will implement the GPR as a three-year pilot program

[289] Columbia notes the OCA, CAUSE-PA and the RESA/NGS Parties are not parties to the Non-Unanimous Settlement. However, Columbia states that PSU has indicated to Columbia's counsel that they do not oppose the Settlement. Columbia also states it addressed the OCA's and the 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 the OCA and the RESA/NGS Parties. Columbia notes CAUSE-PA did not submit testimony in this proceeding.

(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. Columbia avers that 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. Columbia SIS at 3-4.

Additionally, Columbia notes this settlement provision sets forth the process for the Company to seek to continue the pilot program for an additional two years. Columbia asserts the process provided for in the JPNUS balances Columbia's interest in ensuring that there is not a break in the pilot program between the initial three program years and the following two program years, should the Commission approve a two-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. Columbia SIS at 4.

The JPNUS, 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. Columbia asserts this

information can also be used by Columbia and the other parties to evaluate the pilot program at the conclusion of its three-year term. Columbia SIS at 4-5.

Columbia notes that 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 GPR 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 Advocates 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 GPR pilot program. Columbia SIS at 5.

In testimony, Columbia witness Evans noted that the Company intends to continue to use surveys to collect information from customers regarding their enrollment in the GPR pilot program, their views and interests in renewable resources.[290] Paragraph 24 of the JPNUS 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 three-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 states it seeks to position

[290] Columbia St. No. 1-R, p. 6.

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. Columbia asserts these surveys provide Columbia the opportunity to learn more about its customers' attitudes on these matters. Columbia SIS at 5-6.

Columbia states that the JPNUS, at paragraphs 25 and 26, addresses a contentious issue in this proceeding – the recovery of one-time IT costs and the annual expense for consumer education related to the GPR. Initially, the Company planned to seek cost recovery from the customer classes eligible to participate in the GPR, as part of a future base rate case. Columbia's cost recovery proposal was not supported by I&E, the 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 these costs be recovered only from customers participating in the GPR pilot program, through the Green Path Rider rate itself.[291] Paragraphs 25 and 26 memorialize Columbia's revised cost recovery proposal. Columbia argues that permitting Columbia to recover the costs relating to its IT programming and education campaign through the GPR 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. Columbia SIS at 6-7.

The GPR, if approved, would provide customers with an option to reduce their emissions related to their natural gas usage, by ether 50% or 100%, through the purchase of RNG environmental attributes and carbon offsets. Under the JPNUS, 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

[291] Columbia St. No. 1-R, pp. 2 – 3.

paragraph 27 to the Statutory Advocates within 14 days of finalizing the JPNUS. Columbia SIS at 7.

Columbia concludes that the JPNUS resolves all issues among the Joint Petitioners raised in this proceeding and that for the reasons explained above, the resolution of the issues contained within the Settlement is in the public interest and the JPNUS should be approved without modification. Columbia SIS at 8.

B. I&E's Position

I&E submits that the terms and conditions of the JPNUS are in the public interest and represent a reasonable and equitable balance of the interests of Columbia, Columbia's customers, I&E and the OSBA. I&E asserts that the parties have conducted extensive formal and informal discovery, have participated in numerous settlement conferences, and the extensive and open discussions culminated in the Settlement Agreement. I&E requests approval of the JPNUS 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."[292] 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."[293] I&E states that, as a product of negotiation and compromise, this Settlement Agreement reflects a compromise between the Settling Parties. Accordingly, I&E believes that the terms and conditions of the JPNUS are in the public interest. I&E SIS at 1-2.

As part of the Settlement, Columbia will implement the GPR 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

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292 *Pa. Pub. Util. Comm'n v. Phila. Elec. Co.,* 60 Pa.P.U.C. 1, 22 (1985).

293 *Pa. Pub. Util. Comm'n v.* CS *Water and Sewer Assocs.,* 74 Pa.P.U.C. 767, 771 (1991).

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 SIS at 6.

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. I&E avers this term represents a compromise between the Settling Parties as the Company originally proposed a five-year timeframe for its GPR. I&E SIS at 6.

Columbia will file an annual GPR 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.

I&E SIS at 6-7.

I&E states that the information the Company will provide in the annual report will assist I&E in its review of the GPR. In testimony, I&E witness Cline recommended that the Company's GPR be assessed, reviewed, and recovered through the Purchased Gas Cost filings.[294] Essentially, I&E's recommendation was made to ensure that there was a process to review information related to the pilot program. The 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. I&E SIS at 7-8.

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. I&E SIS at 8.

I&E asserts 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

[294] I&E St. No. 1, p. 4.

the information provided is accurate and communicated in a way for consumers to easily understand the parameters of the voluntary program. I&E SIS at 8.

Columbia will also provide surveys to the GPR 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 SIS at 9.

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 GPR. I&E avers 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. I&E SIS at 9.

Columbia agreed through Settlement that the one-time IT costs and annual expense for consumer education will be recovered only from participating customers through the GPR 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 two 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. I&E SIS at 9-10.

I&E notes that, 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 GPR.[295] 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.

[295] I&E St. No. 1, pp. 5-6.

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 GPR pilot. I&E SIS at 11.

I&E states it has no specific comments on the carbon offsets terms contained in the Settlement. I&E SIS at 10.

I&E concludes that, based on I&E's analysis of the pilot program requested by Columbia Gas of Pennsylvania, Inc., acceptance of this proposed JPNUS is in the public interest and 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 SIS at 10-11. Therefore, I&E supports the JPNUS as being in the public interest and requests that the ALJs recommend, and the Commission subsequently approve, the foregoing Settlement Agreement, including all terms and conditions contained therein. I&E SIS at 12.

C. OCA's Position

OCA notes in its objections to the JPNUS that the JPNUS revises the length of the pilot program from five years to three years with an option to file for a two-year renewal.[296] Converting the length of the program from five years to three years with an option file for an additional two years merely allows the plan to go into effect by restructuring it without necessarily changing the ultimate length of the program. This restructuring of the program's initial length from five to three years plus, potentially, two additional years, does not alleviate the OCA's concerns regarding the deficiencies of the pilot program discussed at length throughout the OCA's Main Brief and Reply Brief. OCA Comments at 2.

In the event the JPNUS is adopted, Columbia would add an optional, non-basic service to the Company's distribution service tariff as an on-bill service. As discussed in greater

[296] JPNUS at ¶ 20.

detail in the OCA's Main Brief, there are larger policy and competitive market structural questions that need to be examined and resolved, including:

- whether the proposed program belongs in a distribution company tariff, or more accurately is a supply product;
- whether the program's inclusion of annual changes in rates charged through the Rider to Columbia distribution customers is reasonable;
- the Green Path's Rider's impact on retail competition; and
- the plan's appropriateness given the lack of an equivalent to the Alternative Energy Portfolio Standards Act for natural gas utilities in Pennsylvania.

See OCA MB at 19-21. OCA Comments at 2.

If this program is approved, Columbia will begin charging ratepayers for an on-bill service that includes various deficiencies as discussed throughout the OCA's Briefs. Adjusting the initial length of the proposed program from five years to three years and allowing for a two-year renewal option in no way alleviates the OCA's concern that this specific program is fundamentally flawed. OCA Comments at 2-3.

The OCA next addresses the annual reporting requirements set out in the JPNUS.[297] The OCA notes that Columbia has not proposed, and the JPNUS does not include, any actionable metrics to measure in order to determine whether the program is successful.[298] While a step in the right direction given that Columbia's proposal does not include any reporting requirements, the OCA asserts that the annual reporting requirements are insufficient in addressing the shortcomings of the GPR. OCA Comments at 4.

Regarding consumer education, the OCA notes that, to date, no consumer education material, marketing material, or disclosures of any kind have been provided to the parties beyond a potentially misleading public notice.[299] Under the JPNUS, there is no guarantee

[297] *See* JPNUS at ¶21.

[298] *See* OCA MB at 9-11.

[299] *See* OCA RB at 8, 11-12.

that any of the Statutory Advocates' input or suggested edits would be incorporated into the material, as the JPNUS explicitly states that it merely "endeavor[s] to come to a consensus on the language."[300] The OCA maintains that the JPNUS provides little assurance that any of the necessary edits that would be proposed by Statutory Advocates would be taken into account by Columbia. Under the JPNUS, Columbia can present educational material, hold virtual meetings (and subsequently, send e-mails at any time), while retaining discretion to incorporate or omit suggested edits. OCA Comments at 4-5.

Additionally, the OCA maintains that the JPNUS does not address the OCA's concerns regarding Columbia's marketing materials and the disclosures made to Pennsylvania customers.[301] Including stakeholder input for consumer education, marketing, and disclosure materials for this novel pilot program is necessary for this specific pilot program. The OCA argues that a complicated program that sells market derived attributes and credits directly to retail customers from a regulated entity should not be approved prior to the preparation of any educational materials approved by the Commission. These are new and novel markets, and consumers have no experience with renewable attributes and renewable gas credits. The JPNUS does not address these concerns as explained in detail in the OCA's Main and Reply Briefs.[302] OCA Comments at 5.

Regarding the provisions in the JPNUS on data collection,[303] the OCA notes that none of the surveys related to this section have been shared with any of the parties. More importantly, simply surveying customers throughout the term of the pilot will not provide useful metrics for the parties and the Commission to evaluate. Nor will it address any of the potential cost implications caused by the pilot program. Additionally, the OCA's concerns regarding potentially misleading information given the complexities between RNG environmental attributes (which are part of the program) and RNG (which is not part of the program) are

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300 *See* JPNUS at ¶¶ 22-23.

301 *See* OCA MB at 15-17; OCA RB at 7.

302 *See* OCA MB at 15-17; OCA RB at 2-4.

303 *See* JPNUS at ¶ 24.

exacerbated by the inclusion of RNG in surveys to customers. The OCA submits that the fact that the surveys and responses will be confidentially provided to the Statutory Advocates with Columbia's annual reports is not a reasonable approach for this niche and novel pilot program. OCA Comments at 5-6.

The JPNUS also addresses information technology and consumer education cost recovery.[304] The OCA notes that Columbia's revised proposal to include IT implementation and annual customer education costs in the cost of the GPR service would avoid improper allocation of costs through base rates to all distribution service customers.[305] OCA Comments at 6-7.

Additionally, the OCA notes that under the JPNUS, the carbon offsets purchased by Columbia will be restricted to North America.[306] Given this alteration to Columbia's program in the JPNUS, the OCA is concerned about a potential price impact that this change could cause and the lack of analysis or supporting evidence in the record to support the implementation of this apparently new carbon offset purchase amendment to the contract. The OCA asserts that there has been no cost-benefit analysis of whether the carbon offsets that Columbia purchases from North America are reasonably priced for its distribution customers. OCA Comments at 7.

The OCA further argues that it is also entirely unclear from the JPNUS's provisions how this program modification will occur, whether by contractual amendment, new purchasing agreement, or an entirely new contract. The JPNUS merely mentions that the statutory advocates will be supplied with written verification within fourteen days of finalizing the settlement.[307] It goes on to state that this written verification will include a draft copy of the confirmation sheet used by the offset supplier which documents the requirement that carbon

304 *See* JPNUS at ¶¶ 25-26.

305 OCA MB at 13; OCA RB at 5.

306 JPNUS at ¶¶ 27-28.

307 JPNUS at ¶ 27.

offsets purchased will be restricted to North American offsets.[308] The OCA submits that the process is vague and precludes Commission review. OCA Comments at 7.

Moreover, the OCA argues that these JPNUS provisions only involve carbon offsets and do not include the RNG environmental attributes that will be a part of Columbia's program, both as proposed and under the JPNUS. Columbia's public notice, however, markets this program as a program which reduces a participating customer's emissions associated with their natural gas usage. To be clear, even under the JPNUS, there is no support in the record that Columbia's GPR program would enable Pennsylvania consumers to decrease their greenhouse gas emissions as no renewable natural gas is being utilized in this program (only RNG attributes are being utilized).[309] Indeed, despite the parties' knowledge regarding the differences between carbon offsets, RNG and RNG environmental attributes, the JPNUS still permits RNG environmental attributes to be purchased from sources outside of the United States. OCA Comments at 7-8.

The OCA maintains that the shortcomings of Columbia's proposed GPR are not sufficiently addressed by the JPNUS. For the reasons discussed in the OCA's Main Brief, Reply Brief, and above, the JPNUS is not in the public interest. Columbia's burden of proof in this proceeding is to establish that the GPR constitutes just and reasonable rates and the JPNUS does not satisfy this burden any more than Columbia's proposal as modified through rebuttal testimony. As the program has been modified in the JPNUS, the program's impact on rates is currently unknown. OCA Comments at 8.

The OCA submits that the voluntary nature of the plan and its novel nature does not mean that less consumer protections are necessary. Columbia is a Natural Gas Distribution Company proposing a tariffed rider billed by a regulated Pennsylvania public utility without providing sufficient consumer protections. The OCA opposes the JPNUS because the program is potentially misleading to Company's consumers who want to make a positive difference

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308 JPNUS at ¶ 28.

309 *See* OCA MB At 8-10; OCA RB at 2.

regarding the serious issue of the environment and climate change. As modified by the JPNUS, Columbia's GPR is flawed in design and presents risks to consumers that arise in this plan due to its shortcomings. The Joint Petitioners have not properly addressed the critical issues that Columbia's GPR introduces. Accordingly, the OCA maintains that the JPNUS is not in the public interest and should be denied. OCA Comments at 8-9.

D. OSBA's Position

The OSBA submitted a statement in support of the JPNUS, stating it actively participated in the negotiations that led to the proposed settlement and is a signatory to the JPNUS. OSBA SIS at 1.

The OSBA states the GPR would provide the Company's residential and small commercial and industrial customers with an option to offset some or all of the GHG emissions related to each customer's natural gas usage. The OSBA asserts this case is one of first impression for the Office of Administrative Law Judge and the Commission. OSBA SIS at 1.

The OSBA asserts that 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 a third-party supplier, 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. OSBA SIS at 2.

The OSBA states that the JPNUS proposes to reduce the term of the GPR Pilot Program from 5 years to 3 years.[310] The OSBA supports this reduction as it will allow all

[310] JPNUS at ¶ 20.

interested parties to review, comment, and challenge the operation of the GPR over a shorter time period. The OSBA states this is especially helpful as options to reduce GHG are rapidly evolving. OSBA SIS at 9.

The OSBA notes that the JPNUS proposes detailed, annual reporting to the Commission and Statutory Advocates setting forth various metrics and operational details of how the GPR is performing.[311] The OSBA asserts that, 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. OSBA SIS at 9.

The OSBA notes that Columbia did not provide any consumer education materials to the parties during this proceeding. The JPNUS commits Columbia to work with the Statutory Advocates to create consumer education materials if the Commission approves the GPR.[312] The OSBA states this is an acceptable resolution to this issue for the OSBA. OSBA SIS at 10.

The JPNUS proposes that the one-time 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.[313] The OSBA took this position in testimony and supports this as a just and reasonable resolution of this issue. OSBA SIS at 10.

The JPNUS proposes that "[t]he carbon offsets purchased by Columbia will be limited to projects located in North America."[314] The OSBA asserts this is the significant concession, obtained by the OSBA, which allowed the OSBA to support the JPNUS. The OSBA states that the inexpensive contract that NiSource signed with a third-party supplier did not allow NiSource, or Columbia, any say in where the third-party supplier obtained its carbon offsets.

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311 JPNUS at ¶ 21.

312 JPNUS at ¶¶ 22-23.

313 JPNUS at ¶¶ 25, 26.

314 JPNUS at ¶ 25.

The OSBA states that it did not want the Commission to have to explain why it was allowing Columbia to use carbon offsets from anywhere in the world. The OSBA also argues that domestic carbon offset projects in the forestry sector in particular pose far less risk of failure compared to their international counterparts. OSBA SIS at 10.

The OSBA also states that, by having a third-party supplier restrict the region for its carbon offsets, this will undoubtably increase the cost charged to Columbia's participating customers. However, the OSBA submits that this is a necessary restriction to ensure the credibility of the program. OSBA SIS at 11.

The OSBA concludes by stating that, for the reasons set forth in its statement in support, and as detailed in the JPNUS, the OSBA respectfully requests that the ALJs and the Commission approve the JPNUS. OSBA SIS at 11.

E. RESA/NGS Parties' Position

The RESA/NGS Parties oppose the JPNUS and maintain that the JPNUS and the GPR program it would authorize, are not in the public interest and should be rejected by the Commission. The RESA/NGS Parties submit that there are numerous flaws in the GPR and the JPNUS, including: attempting to "tariff" a non-basic service; failing to apply the Standards of Conduct which will result in cross-subsidization of the costs of GPR; failing to structurally separate the provision of GPR from the provision of regulated services; and discriminating against suppliers in the provision of billing service for the GPR, in addition to the assertion of market power by an incumbent utility seeking to enter a competitive market and seeking the Commission's blessing to do so. RESA/NGS Comments at 1-2.

Columbia and two parties out of seven were able to achieve a settlement that would allow Columbia to offer a tariffed competitive product – the so-called GPR (a combination of 95% carbon offsets and 5% renewable natural gas attributes) – to default service customers on Columbia's system. The RESA/NGS Parties assert that the JPNUS fails to recognize, let alone resolve, a number of contested issues that have been litigated in this matter

by the three parties that oppose the Settlement. Any one of these issues, when appropriately resolved, will prove fatal to the GPR and fatal to the JPNUS. RESA/NGS Comments at 2.

The JPNUS would approve the GPR with a few modifications that do not address the fundamental issues raised by RESA/NGS Parties, and others, and ignores the basic question of whether it is appropriate for a natural gas utility to include a non-basic product, one intended to compete with natural gas suppliers and others, in its distribution service tariff. This issue is not one of mere semantics; rather, the inclusion of a competitive product in its tariff signals Columbia's intention to offer a competitive product as part of its regulated service offerings, and to not apply the separation requirements (books, personnel, etc.) required by the Commission's regulations at 52 Pa. Code §§ 62.141-142. This arrangement also signals Columbia's intention to subsidize the GPR so that all distribution customers pay for its operation. Columbia makes the pallid assertion that there is nothing in the record to suggest that it will do so, but that is countered with a complete absence of any denial that it will not seek such recovery coupled with the clear statement that it intends to propose recovering the O&M costs in a future rate case. If Columbia intended to recover the O&M costs as part of the GPR, it should have proposed that recovery in this proceeding and did not. Columbia's intentions are clear. It is also obvious that Columbia expects that the imprimatur of the Commission (in the form of tariff approval) when added to the GPR will suggest some additional level of quality. While the GPR is not jurisdictional to the Commission as a product, Columbia's provision of the product is subject to the Standards of Conduct which is not addressed in the JPNUS. RESA/NGS Comments at 2-3.

Apart from the failure to address the competitive nature of its proposal, Columbia seeks approval of the JPNUS by offering what it characterizes as a "concession" - to limit the carbon offsets it sells via the GPR, to projects within North America. The RESA/NGS Parties submit that there is no evidence on the record that this change in the terms of the GPR will improve the offering or address any of the competitive issues not addressed in the Settlement. There is no evidence that limiting the projects to those located in North America would create more accountability or provide more favorable results for customers than the scope of the initial offering -- which was global. There is no new or improved basis declared in the JPNUS that overcomes the reality that the GPR is bad policy, will harm the competitive market, is potentially

bad for customers, and should otherwise be rejected, as should the JPNUS. At bottom, however, the GPR is a competitive non-basic product. The RESA/NGS Parties maintain that the Commission should not even consider approving it in the first instance. RESA/NGS Comments at 3.

The RESA/NGS Parties assert that neither the terms of the JPNUS nor the various statements in support alter the inadequacy of the JPNUS or the GPR. The RESA/NGS Parties note that the JPNUS introduces six revisions to the GPR: 1) a shortening of the term of the "pilot" from five years to three; 2) a requirement that Columbia file an annual report; 3) a requirement that Columbia submit customer education materials to the statutory advocates 30 days before Columbia intends to use the materials and the ability of the parties to discuss the materials; 4) that Columbia will provide surveys at enrollment and exit; 5) that Columbia will recover costs, limited to a minor IT upgrade and annual consumer education expense, from GPR customers; and, 6) that previously noted "concession" that Columbia limit its acquisition of carbon offsets to those produced from projects in North America. RESA/NGS Comments at 3-4.

Regarding the shortened pilot, the RESA/NGS Parties note that Columbia has agreed to shorten the initial term of the "pilot" from five years to three, but has the opportunity to extend the pilot for an additional two years. This change does not alter the five-year contract obligation that Columbia undertook to provide the carbon offsets and RNG attributes. The RESA/NGS Parties argue that it is fairly certain that all this term accomplishes is that Columbia be required to make an additional filing after three years to extend the GPR. RESA/NGS Comments at 4.

Regarding the annual report term provided for in the JPNUS, the RESA/NGS Parties assert that the report will be information that any seller of such products would already collect. The only concession is that Columbia file it with the Commission. RESA/NGS Comments at 4.

Regarding the customer education term provided for in the JPNUS, the RESA/NGS Parties maintain that there is no ability of the advocates to veto or approve the

materials, only to discuss them with Columbia. The only concession here is to provide the advocates with a sneak peek at education materials. RESA/NGS Comments at 4.

Regarding customer surveys, the RESA/NGS Parties note that Columbia agreed to conduct entry and exit surveys of the customer's GPR experience. This is valuable information for any marketer and in this case, because if approved it will be a regulatory requirement, Columbia will recover the costs of collecting the data in base rates from all customers. Columbia did not commit to recovering these costs only from the GPR customers. The RESA/NGS parties argue that this is not a concession, but rather a way to get all of Columbia's customers to subsidize the GPR. RESA/NGS Comments at 4-5.

Regarding cost recovery, the RESA/NGS Parties assert that the JPNUS is as notable for what it does not say about cost recovery as it is in what it does say. It states that Columbia will recover "the one-time IT costs and annual expense for consumer education will be recovered only from participating customers through the Green Path Rider rate." The RESA/NGS Parties submit that the JPNUS does not agree that Columbia will recover all costs associated with GPR only from GPR customers, nor does the initial GPR filing. The only concession is that Columbia recovers consumer education costs from GPR customers and any agreement to recover all costs of the GPR from GPR customers is noticeably absent, highlighting the point that distribution customers will inevitably subsidize the GPR if it is not rejected. RESA/NGS Comments at 5.

Regarding the origin of carbon offsets, the RESA/NGS parties note that Columbia's initial proposal is that the Carbon Offsets that are 95% of the GPR product be sourced from non-determinate sources; that is, they could come from projects anywhere in the world. In its presentation, Columbia referred to projects in other states as being comparable, but the offsets in those programs were decidedly more local, i.e., from within the same state. As a concession Columbia has agreed to purchase offsets for the GPR from sources in North America. The RESA/NGS Parties submit that there is no evidence in the record to support the implicit suggestion that offsets sourced from North America are somehow of a higher quality or produce better results, only that they are obtained closer to home. None of the parties to the JPNUS cite

any record evidence to support that this ringfencing is an upgrade that makes the whole GPR worthwhile, because it is not. RESA/NGS Comments at 5.

The RESA/NGS Parties argue that the JPNUS is flawed because the underlying GPR is flawed. The RESA/NGS Parties believe that the GPR never should have been introduced as a tariffed product, never should have been proposed without the Standards of Conduct, and that it should not have been submitted to the Commission for approval because it is not a jurisdictional product. Putting aside the existential flaws and focusing on the JPNUS, it is not in the public interest because it cannot improve, for the purposes of seeking approval, a product that should never have been submitted for approval in the first instance. The RESA/NGS Parties submit that the Commission should reject the GPR tariff as inappropriately filed, reject the settlement, and make it clear that if Columbia wants to offer a competitive product such as the GPR in the future, it must abide by the Standards of Conduct and not seek to stick all of its distribution customers with the bill. RESA/NGS Comments at 5-6.

F. PSU's Position

PSU did not file comments regarding the JPNUS.

G. CAUSE-PA's Position

CAUSE-PA objects to the JPNUS. CAUSE-PA is strongly supportive of utility proposals to advance clean energy and energy efficiency goals in Pennsylvania. However, as proposed, the GPR program would establish a bad precedent for Commission-approved "environmental" or "green" programs in Pennsylvania.[315] As explained more fully in CAUSE-PA's Reply Brief, the record shows that the program is expensive and misleading, and poses unreasonable risks to low-income customers who already struggle to afford service, with little to no actual, verifiable benefit to program participants.[316] CAUSE-PA maintains that the terms of

[315] CAUSE-PA RB at 6.

[316] CAUSE-PA RB at 1.

the proposed Settlement do not alleviate these problems. As such, CAUSE-PA urges the Commission to deny the proposed JPNUS and reject Columbia's proposed GPR. CAUSE-PA Comments at 1.

CAUSE-PA first argues that the proposed JPNUS does nothing to lessen the disproportionately high cost of the program or to protect low-income customers from exposure to higher costs without commensurate benefits. Despite the fact that Columbia has proposed to exclude customers who participate in CAP from enrolling in the GPR program, a large majority (65%) of Columbia's low-income customers are not enrolled in CAP and will remain at risk of the extra charges without commensurate benefit.[317] A limited exception covering a small percentage of low-income customers will not help alleviate the risk posed by this deeply flawed program that is designed to increase costs for gas service without clear, identifiable benefits to consumers or Pennsylvania.[318] The proposed JPNUS does nothing to alleviate that risk. CAUSE-PA Comments at 1-2.

CAUSE-PA next argues that the Annual Reporting and Consumer Education provisions in the JPNUS are insufficient to address the lack of transparency regarding purported benefits and the risks posed to consumers who participate in this program. The datapoints proposed for Columbia's annual reporting are insufficient to demonstrate whether customers are receiving an actual benefit from participating in the program and do not capture the potential effect of enrollment on low income households.[319] The Consumer Education provisions of the JPNUS do not address the concerns voiced in CAUSE-PA's reply brief.[320] Merely providing advanced copies of unspecified, yet-to-be developed materials to the statutory parties is insufficient to address the risk of consumers being misled. The JPNUS does not provide what types of materials will be produced or how those materials will be delivered to adequately explain the program in a manner that would allow consumers to understand the terms and make a

317 CAUSE-PA RB at 7.

318 Id.

319 JPNUS at ¶ 21.

320 JPNUS at ¶¶ 22-23.

fully informed choice before to agreeing to pay the substantial cost to participate. Nor does the JPNUS ensure that the parties' input on these draft documents will be adopted. CAUSE-PA Comments at 2.

Lastly, CAUSE-PA argues that the carbon offset provisions of the JPNUS are insufficient to ensure that customers would receive a verifiable benefit that would justify the additional cost of participating in the program. Although the terms would require written verification that the carbon offsets purchased would be restricted to North American offsets,[321] carbon offsets are unreliable and operate in a completely unregulated market.[322] The mix of offsets purchased by NiSource are inherently fungible and carbon offsets generally are notoriously unreliable for delivering the emission reduction benefits that they are designed to provide.[323] Merely producing a verification to the statutory parties is insufficient to address the numerous problematic issues regarding the GPR's reliance on the unregulated carbon offset market. Further, restricting offsets to North America does not address the fact the program misleads participants to believe they are purchasing RNG that will reduce local emissions – rather than forestry and tree planting projects somewhere on the North American continent.[324] Thus, even as modified by the proposed JPNUS, the GPR program would provide no identifiable benefit to Pennsylvanians and would not further Pennsylvania's clean energy goals. CAUSE-PA Comments at 2.

For the aforementioned reasons, CAUSE-PA submits that the proposed JPNUS is not in the public interest because it leaves consumers at risk of being charged unjust and unreasonable rates through participation in the GPR. Even as amended through the terms of the JPNUS, the program remains unjust and unreasonable with lack of transparency in purported environmental benefits, an insufficiency of proposed marketing materials, an inherent financial

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321 JPNUS at ¶¶ 27-28.

322 CAUSE-PA RB at 4, 10 *see also* OSBA St. 1, p. 18.

323 CAUSE-PA RB at 9-10.

324 CAUSE-PA RB at 4-5.

risk to low-income consumers, and no defined metrics to evaluate the effectiveness of the "pilot." CAUSE-PA Comments at 2.

XII. RECOMMENDATION

We find that Columbia's proposed Green Path Rider, as modified by the JPNUS, is supported by substantial evidence, just and reasonable, in the public interest, and in conformity with the Commission's orders and regulations. Therefore, we recommend that the Commission approve the JPNUS and deny the Formal Complaints of the OCA and the RESA/NGS Parties, and reject the objections of the OCA, the RESA/NGS Parties, and CAUSE-PA.

The Commission encourages settlements, even in non-unanimous situations.[325] The standards for approving the terms of non-unanimous settlements 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, in the public interest, and in conformity with the Commission's orders and regulations.[326]

Columbia conducted surveys showing a large and increasing interest from its customers in having the option of using renewable energy options. Specifically, Columbia demonstrated that between 2018 and 2022, the percentage of customers surveyed that favored being given the choice of using renewable energy compared to conventional fuels increased from 71% to 83%.[327] Columbia admits it is not purchasing actual RNG supply for the Green Path Rider,[328] but states the Green Path Rider will provide customers an option to offset the carbon emissions related to their natural gas usage by either 50% of by 100%.[329] The offsets will be

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[325] *City of Bethlehem Water; Columbia Gas; Pike County; Pennsylvania-American Water Co.*

[326] *See* 66 Pa.C.S. § 1301; *City of Bethlehem Water; Columbia Gas; Pike County; Pennsylvania-American Water Co*.

[327] Columbia Gas Exhibit 1, pp. 26-35; Columbia St. 1, p. 5.

[328] Columbia St. 2, p. 6.

[329] Columbia St. 1, p.3.

provided by a third party and will consist of 5% RNG environmental attributes and 95% carbon offsets.[330]

Although the survey responses above, i.e., interest in *use* of renewable energy, do not correlate precisely to what Columbia's GPR offers, i.e., RNG attributes and carbon offsets, it is clear that Columbia has demonstrated a clear interest from its customers in being provided a program to mitigate effects caused by the use of conventional natural gas. The same survey responses also demonstrated that, in 2022, 75% of customers surveyed favored expanding the United States' renewable energy resources, and that 63% of customers surveyed found use of natural gas that is carbon neutral, like RNG, appealing.[331]

The Green Path Rider will serve Columbia's customers' interests by providing a voluntary option to mitigate effects caused by their use of conventional natural gas. Columbia averred it did not yet develop customer education materials because the program has not been approved.[332] Although the Company commits to clear and accurate customer education materials should the GPR be approved,[333] through the terms of JPNUS, Columbia commits to the participation of the Statutory Advocates[334] in reviewing and providing feedback on consumer education material related to the Green Path Rider.[335] We believe this is an important concession that will help ensure that Columbia's customers are clear as to what the Green Path Rider offers.

I&E, the OCA, and the OSBA all opposed Columbia's original proposal to recover costs from customer classes eligible for the GPR. It is therefore notable that the JPNUS limits cost recovery for one-time IT costs and customer education expenses to customers

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330 Columbia St. 2, p. 6.

331 Columbia Gas Exhibit 1, pp. 26-27. Notably, only 4% of survey respondents did not find use of carbon neutral gas appealing, while 32% responded "don't know/not sure".

332 Columbia St. 1-R, p. 7.

333 Columbia St. 1-R, p. 7.

334 The Statutory Advocates include I&E, the OCA, and the OSBA. 52 Pa. Code § 1.8.

335 JPNUS, ¶¶ 22, 23.

participating in the Green Path Rider program.[336] The OSBA expressed concerns that under Columbia's proposal carbon offsets could be obtained worldwide.[337] Columbia and the OSBA compromised that carbon offsets purchased on behalf of the GPR would only be generated from projects in North America.[338] Additionally, the GPR is a three-year pilot program that requires annual reporting and customer surveys to evaluate the success of Columbia's proposal.[339] The annual reports will be publicly available at this proceeding's docket, and at the same time, the Statutory Advocates will be provided access to the customer surveys and results in a confidential manner.[340] We find that these features of the GPR proposal, as modified by the JPNUS, support Columbia's proposal as being just and reasonable and in the public interest since they set forth safeguards to simultaneously serve the interests of Columbia's customers while subjecting the program's design to oversight and evaluation that may lead to future refinement of the program at the end of the three-year pilot term.

Also relevant to the Commission's approval of a non-unanimous settlement is the due process afforded to non-settling parties, such as whether non-settling parties were provided an opportunity to object to the settlement and to present their positions on the issues, and the range of interests represented in the non-unanimous settlement.[341] In this case, the non-settling parties to the JPNUS were given an opportunity to first submit briefs. In addition, the JPNUS was served on all parties to the proceeding, and we established procedures for filing comments in opposition thereto. The non-settling parties, i.e., the OCA, the RESA/NGS Parties, CAUSE-PA,

336 JPNUS, ¶¶ 25, 26.

337 OSBA SIS at 10.

338 JPNUS, ¶¶ 27.

339 JPNUS, ¶¶ 20, 21, 24.

340 JPNUS, ¶¶ 21, 24.

341 *City of Bethlehem Water*.

and PSU were provided the opportunity to file main and reply briefs regarding Columbia's proposed Green Path Rider, as well as comments regarding the JPNUS.[342]

We do not find the arguments raised by the parties opposing the proposed GPR are sufficiently persuasive to merit denial of Columbia's proposal. The OCA, the RESA/NGS Parties', and CAUSE-PA similarly state the GPR will be difficult to explain to customers, and that customers may be potentially misled as to what they are actually purchasing through the GPR.[343] The OCA and CAUSE-PA also criticize Columbia's proposal for failing to provide customer education and other materials during this proceeding.[344]

We agree with Columbia that it is premature to expect that consumer education and other public materials have been developed in their entirety since the GPR has not yet been approved by the Commission. Additionally, although Columbia asserts its materials will be clear, the non-settling parties' concerns have been further addressed because the JPNUS provides that Statutory Advocates will give feedback to Columbia regarding consumer education materials. The OCA, the RESA/NGS Parties, and CAUSE-PA express skepticism that the edits proposed by Statutory Advocates will be incorporated by Columbia.[345] Although we agree that the Settlement terms do not mandate Columbia to accept the Statutory Advocates' suggestions, we have no reason to believe that parties won't implement the terms of the Settlement in good faith, which should include incorporating the input of the Statutory Advocates when appropriate.

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342 The OCA and the RESA/NGS Parties filed a main brief, a reply brief, and comments to the JPNUS. CAUSE-PA filed a reply brief and comments to the JPNUS. PSU only filed a main brief and, although it did not join the JPNUS, it requested that "if the Presiding Officers and the Commission approve the Company's Green Path Rider, that the Company's modified cost recovery proposal, to recover all costs to implement and operate the program from Green Path Rider participants, be approved. This method of cost recovery is reasonable because it fairly collects the costs from the customers that benefit and, as a result, is in the public interest." PSU MB at 8. We note that the Non-unanimous Settlement does provide that IT and consumer education costs will only be recovered from customers electing the Green Path Rider rate.

343 OCA MB at 8-9, 12-13, 15-16; RESA/NGS MB at 8-9; CAUSE-PA RB at 4-6, 10-11.

344 OCA MB at 15; CAUSE-PA RB at 9-10.

345 OCA Comments at 4-5; RESA/NGS Comments at 4; CAUSE-PA at 2.

The OCA also criticizes Columbia's proposal for failing to identify information or actionable metrics that will evaluate its success.[346] CAUSE-PA similarly asserts the annual reporting and consumer education provisions in the JPNUS are insufficient to address the lack of transparency regarding purported benefits and the risks posed to consumers who participate in this program.[347] We do not find the OCA or CAUSE-PA arguments persuasive. The JPNUS provides for specific criteria and customer surveys to help evaluate the program's success, including enrollment levels, characteristics of purchased RNG environmental attributes and carbon offsets, as well as customer feedback. As Columbia states, the Green Path Rider pilot program provides an opportunity to assess customer interest in both RNG environmental attributes and carbon offsets, and to educate customers about these types of renewable energy resources.[348]

The RESA/NGS Parties criticize Columbia's market research because it asks questions about RNG, not Renewable Gas Attributes or Carbon Offsets.[349] Similarly, the OCA argues Columbia has not researched customer acceptance of RNG attributes and carbon offsets.[350] Although we agree that the questions in the customer surveys do not reflect Columbia's specific proposal, as discussed above, we believe the surveys do show a general interest from Columbia's customers in being provided options to mitigate effects caused by use of conventional natural gas. Additionally, the voluntary nature of the program coupled with actual consumer participation will demonstrate whether Columbia's customers are interested in this specific proposal.

The RESA/NGS Parties assert that Columbia's proposal is subject to, and violates, the Standards of Conduct found at 52 Pa. Code §§ 62.141-142 (Standards of Conduct), which requires the separation of personnel and expenses as between jurisdictional and

346 OCA MB at 10; OCA Comments at 4.

347 CAUSE-PA Comments at 2.

348 Columbia RB at 7.

349 RESA/NGS MB at 8.

350 OCA MB at 12.

competitive services.[351] We do not agree that the Standards of Conduct apply to Columbia's proposal. The RESA/NGS Parties argue the Standards of Conduct apply because the GPR is a product "related to" natural gas supply services to compete with products already in the market.[352] The Standards of Conduct do not define "natural gas supply services." However, Chapter 22 of the Public Utility Code (Chapter 22), which led to the creation of the Standards of Conduct, define "natural gas supply services" as follows:

> (1) The term includes:
>
> > (i) the sale or arrangement of the sale of natural gas to retail gas customers; and
> > (ii) services that may be unbundled by the commission under section 2203(3) (relating to standards for restructuring of natural gas utility industry).
>
> (2) The term does not include distribution service.

66 Pa.C.S. § 2202.

As the RESA/NGS Parties themselves admit, the GPR does not sell RNG, but RNG attributes and carbon offsets.[353] Therefore, we see no basis to characterize the GPR as offering "natural gas supply services," which includes the sale of natural gas to retail gas customers. Similarly, we disagree with the OCA's assertion that the GPR should be "viewed as a competitive product on the commodity and natural gas supply service side of the ledger."[354] As described by Columbia, the GPR will be a non-basic service as it is defined by Commission regulations.[355] We also agree with Columbia's argument that Chapter 22 does not give suppliers exclusivity over non-basic products and services or prohibit NGDCs from offering non-basic

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351 RESA/NGS MB at 10-11 (citing 52 Pa. Code §§ 62.142(9), (12) & (13)).

352 RESA/NGS MB at 10-11.

353 *See* RESA/NGS MB at 8.

354 OCA MB at 19.

355 Columbia MB at 23 (citing 52 Pa. Code § 56.2).

products and services simply because natural gas suppliers offer the same or similar products and services.[356]

Even if the GPR was considered a "natural gas supply service," we are not persuaded that the Standards of Conduct apply to Columbia in this instance. Specifically, Columbia is offering the GPR,[357] and therefore it is not clear how Columbia could therefore be considered an NGS under the Standards of Conduct offering the GPR. Although the Standards of Conduct define an NGS as including "an NGDC marketing affiliate without regard to structural relationship"[358] we are not convinced that Columbia qualifies as an NGDC marketing affiliate and is therefore an NGS.

The RESA/NGS Parties argue Columbia's proposal to recover the GPR as a non-commodity charge on the consolidated bill puts suppliers at a severe competitive disadvantage.[359] The OCA asserts it is improper to allow the utility bill to become the vehicle for collecting costs associated with non-regulated services.[360] Columbia asserts the GPR is an optional, non-basic product that would be included as a separate line item on the utility bill.[361] We do not find any evidence that the manner in which Columbia proposes to bill for the GPR violates the law. As stated by Columbia, NGDCs may include charges for non-basic products and services as a separate line item on the utility bill so long as they do so in a non-discriminatory manner.[362] Although the RESA/NGS Parties criticize Columbia's proposal because NGSs cannot include charges for non-basic services provided by NGSs on a

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356 Columbia MB at 15.

357 *See* Columbia St. 4-R, p. 6.

358 52 Pa. Code § 62.141.

359 RESA/NGS MB at 13-14.

360 OCA MB at 16-17.

361 Columbia MB at 18 (citing Columbia St. 1, p. 9 and 66 Pa.C.S. § 1509 (requiring bill to be itemized to separately show amounts for basic service) and 66 Pa.C.S. § 2205(c) (bills to retail gas customers shall contain sufficient unbundled charge information to enable the customer to determine the basis for those charges.)).

362 Columbia MB at 21 (citing 66 Pa.C.S. §§ 1502, 2203 (prohibiting discrimination and anti-competitive practices)). Although the OCA cites *PAETEC* to support its position, it is worth noting that that case applied to telephone bills, and also asserted that the use of line items includes optional services.

consolidated utility bill,[363] the Commission recently held that a utility is not prohibited from affording itself a preference or advantage in the provision of billing services.[364]

The RESA/NGS Parties raise concerns that offering the GPR program "at cost," but without including Columbia's overheads and other indirect costs, will make it difficult for suppliers to win customers.[365] We find that the JPNUS assigning costs of the program to GPR users helps address this concern. Additionally, as stated above, the Commission allows a utility to afford itself a preference or advantage in the provision of billing services.

The OCA and CAUSE-PA assert low-income consumers will be hurt by the GPR if they are eligible and choose to enroll in the program.[366] The OCA and CAUSE-PA also argue the cost of the GPR is significant by itself and in comparison, to other carbon offset programs.[367] The OCA and CAUSE-PA also criticize Columbia's proposal as unreliable in actually delivering the offsets or impacts sought by consumers.[368] It is important to emphasize that, in addition to Columbia's proposal including consumer protections,[369] participation in the pilot program would be voluntary. Customers may leave the program if costs become too burdensome or they otherwise no longer find the GPR appealing. We agree with all parties that it is critical that consumers be well informed when presented with the option to enroll in the GPR. However, presuming consumers are provided adequate materials to make an informed and voluntary choice, we do not find that the concerns presented by the OCA and CAUSE-PA merit denying Columbia's proposal.

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363 RESA/NGS Parties St. 1, p. 12.

364 *Interstate Gas Supply*.

365 RESA/NGS MB at 13; *see also* RESA/NGS Comments at 2-3.

366 OCA MB at 17-18; CAUSE-PA RB at 6-8.

367 OCA MB at 10, 13-14; CAUSE-PA RB at 8-9.

368 OCA RB at 13-14; CAUSE-PA RB at 10.

369 Columbia MB at 11-13.

For all of the foregoing reasons, we find the terms embodied in the Joint Petition for Non-Unanimous Settlement are both just and reasonable and its approval is in the public interest. We recommend the Commission approve the Joint Petition for Non-Unanimous Settlement without modification.

XIII. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. §§ 501, 1308(b).

2. Rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301, 1304.

3. A public utility seeking a proposed rate has the burden of proof to establish the justness and reasonableness of the rate request. 66 Pa.C.S. § 315(a).

4. A litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible. *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

5. Any finding of fact necessary to support an adjudication of the Commission must be based on substantial evidence. *Met-Ed Indus. Users Group v. Pa. Pub. Util. Comm'n*, 960 A.2d 189 (Pa. Cmwlth. 2008); 2 Pa.C.S. § 704.

6. The Public Utility Code does not prohibit a utility from affording itself a preference or advantage in the provision of billing services, but instead prohibits discrimination where utility provides the service to another. *Interstate Gas Supply, Inc. v. Metro. Edison Co., Pa. Elec. Co., Pa. Power Co. and West Penn Power Co.*, Docket No. C-2019-3013805 (Opinion and Order entered Aug. 26, 2021) (reconsideration denied Apr. 14, 2022).

7. Columbia's proposed billing for the Green Path Rider would not result in discrimination to another because Columbia is the only entity providing the optional product under the Green Path Rider and Columbia will not bill for any non-basic product other than that which Columbia itself provides. *See Interstate Gas Supply, Inc. v. Metro. Edison Co., Pa. Elec. Co., Pa. Power Co. and West Penn Power Co.*, Docket No. C-2019-3013805 (Opinion and Order entered Aug. 26, 2021) (reconsideration denied Apr. 14, 2022).

8. The Commission's Standards of Conduct are part of the Commission's Natural Gas Customer Choice regulations and govern the relationships and transactions between NGDCs, their affiliated natural gas suppliers, and non-affiliated natural gas suppliers. 52 Pa. Code § 62.142; 66 Pa.C.S. § 2209.

9. The Commission's Standards of Conduct regulations do not apply to Columbia's proposed offering of the Green Path Rider pilot program. 52 Pa. Code § 62.141.

10. Settlements must be in the public interest. *Pa. Pub. Util. Comm'n v. Windstream Pa., LLC*, Docket No. M-2012-2227108 (Opinion and Order entered Sept. 27, 2012); *Pa. Pub. Util. Comm'n v. C.S. Water & Sewer Assoc.*, Docket No. R-00881147 (Opinion and Order entered July 22, 1991).

11. The Commission's policy permits parties to enter "partial" or "non-unanimous" settlements. 52 Pa. Code §§ 69.401, 69.406, 5.232.

12. As with full settlements, the terms and conditions of partial settlements must be reasonable and in the public interest. *Pa. Pub. Util. Comm'n v. City of Bethlehem – Water Dep't*, Docket No. R-2020-3020256 (Opinion and Order entered Apr. 15, 2021).

13. 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. *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket No. R-2022-3031211 (Opinion and Order entered Dec. 8, 2022); *Pa. Pub. Util. Comm'n v. Pike Cnty.*

Light & Power Co. – Elec., Docket No. R-2020-3022135 (Opinion and Order entered June 23, 2021); *Pa. Pub. Util. Comm'n v. City of Bethlehem – Water Dep't*, Docket No. R-2020-3020256 (Opinion and Order entered Apr. 15, 2021); *Pa. Pub. Util. Comm'n v. Pa.-Am. Water Co.*, Docket No. R-2020-3019369 (Opinion and Order entered Feb. 25, 2021).

14. The standards for approving the terms of non-unanimous settlements 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. 66 Pa C.S. § 1301; *Pa. Pub. Util. Comm'n v. Columbia Gas of Pa., Inc.*, Docket No. R-2022-3031211 (Opinion and Order entered Dec. 8, 2022); *Pa. Pub. Util. Comm'n v. Pike Cnty. Light &Power Co. – Elec.*, Docket No. R-2020-3022135 (Opinion and Order entered June 23, 2021); *Pa. Pub. Util. Comm'n v. City of Bethlehem – Water Dep't*, Docket No. R-2020-3020256 (Opinion and Order entered Apr. 15, 2021); *Pa. Pub. Util. Comm'n v. Pa.-Am. Water Co.*, Docket No. R-2020-3019369 (Opinion and Order entered Feb. 25, 2021).

15. When evaluating a non-unanimous settlement, the Commission will also consider the due process afforded to non-settling parties, such as whether the non-settling parties were provided an opportunity to object to the settlement and to present their positions on the issues, and the range of interests represented in the non-unanimous settlement. *Pa. Pub. Util. Comm'n v. City of Bethlehem – Water Dep't*, R-2020-3020256 (Opinion and Order entered Apr. 15, 2021).

16. The Joint Petition for Non-Unanimous Settlement is supported by substantial evidence, just and reasonable, in the public interest, and in conformity with the Commission's orders and regulations.

17. The OCA, the RESA/NGS Parties, and CAUSE-PA did not meet their burden of persuasion that the proposed Green Path Rider, as modified by the Joint Petition for Non-Unanimous Settlement, should not be approved. *Pa. Pub. Util. Comm'n v. Phila. Gas Works*, Docket No. R-00061931 (Opinion and Order entered Sept. 28, 2007).

XIV. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Non-Unanimous Settlement, filed on March 22, 2023, by Columbia Gas of Pennsylvania, Inc., the Bureau of Investigation and Enforcement, be approved in its entirety and without modification.

2. That Columbia Gas of Pennsylvania, Inc., shall be permitted to file a tariff supplement incorporating the terms of Supplement No. 343 to Tariff Gas Pa. P.U.C. No. 9, as modified by the Joint Petition for Non-Unanimous Settlement, to become effective upon at least one day's notice after entry of the Commission's Order approving the Joint Petition for Non-Unanimous Settlement.

3. That the following Complaints consolidated with the Commission's investigation at Docket No. R-2022-3032167 be dismissed: the Office of Consumer Advocate at Docket No. C-2022-3032404; and the Retail Energy Supply Association, Shipley Choice, LLC, and NRG Energy, Inc. at Docket No. C-2022-3032550.

4. That the Commission's investigation at Docket No. R-2022-3032167 and the Formal Complaints at Docket Nos. C-2022-3032404 and C-2022-3032550 be marked closed.

Date: April 18, 2023

/s/
Christopher P. Pell
Deputy Chief Administrative Law Judge

/s/
John M. Coogan
Administrative Law Judge