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May 1, 2023

VIA ELECTRONIC FILING

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

**RE: Petition for Declaratory Order of the Retail
Energy Supply Association
Docket No. P-2023-3039774**

Dear Secretary Chiavetta:

Enclosed please find Columbia Gas of Pennsylvania, Inc.'s Answer to Retail Energy Supply Association ("RESA") Petition for Declaratory Order.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact the undersigned at 223-488-0794.

Very truly yours,

A rectangular box containing a handwritten signature in blue ink that reads "Candis A. Tunilo".

Candis A. Tunilo

/kak
Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition for Declaratory Order of the Retail :
Energy Supply Association : Docket No. P-2023-3039774
:

**ANSWER OF COLUMBIA GAS OF PENNSYLVANIA, INC. TO
PETITION FOR DECLARATORY ORDER OF THE RETAIL ENERGY
SUPPLY ASSOCIATION**

Pursuant to Sections 5.61(a) and (e) of the Public Utility Commission’s (“PUC” or “Commission”) regulations, 52 Pa. Code § 5.61(a), (e), Columbia Gas of Pennsylvania, Inc. (“Columbia” or “Company”) submits this Answer to the Petition for Declaratory Order (“Petition”) of the Retail Energy Supply Association (“RESA”), wherein RESA seeks a finding that two of Columbia’s PGC filings are improper and requests that the Commission issue a cease-and-desist order that prohibits Columbia from making interim PGC adjustment filings. Specifically, the PGC filings that RESA references are (1) the filing made February 27, 2023, to be effective March 1, 2023 (“March 1 Interim Filing”), and (2) the filing made March 28, 2023, to be effective April 1, 2023 (“April 1 Quarterly Filing”).

I. INTRODUCTION

Columbia submitted the March 1 Interim Filing with the Commission on February 27, 2023, which filing reduced the PGC rate due to the significant, unexpected reduction in actual gas prices from those projected in late 2022. The significant gap between projected gas prices and actual gas prices had already resulted in an approximate \$18.7 million over-collection from customers from January 1- February 28, 2023. The March 1 Interim Filing was designed to better align the PGC rate with actual gas prices and leave customers’ money in their households rather than Columbia holding significant excess customer funds until the PGC’s E-Factor (reconciliation

of over or under-collections plus interest) is adjusted in October 2023. Thereafter, Columbia filed the April 1 Quarterly Filing in accordance with the Company's regular quarterly PGC filing schedule.

On April 10, 2023, RESA filed the Petition seeking a Commission order declaring the March 1 Interim Filing and the April 1 Quarterly Filing illegal, unwarranted and contrary to Commission precedent. Columbia submits that RESA's Petition is improperly filed with regard to the April 1 Quarterly Filing, as the Commission's regulations are clear that interested parties may challenge a quarterly PGC filing only in the utility's next annual Section 1307(f) proceeding. See 52 Pa. Code § 53.64(i)(5)(iv). Further, RESA misconstrues Commission precedent regarding interim PGC changes and anti-competitive behavior. Columbia's March 1 Interim Filing was proper and consistent with prior permissible interim PGC filings. Columbia submits this Answer in opposition to RESA's Petition. The Company respectfully requests that the Commission deny the relief requested in RESA's Petition.

II. ANSWER

1. Columbia admits that it filed Tariff Supplement 356 to Tariff Gas Pa. P.U.C. No. 9 on February 28, 2023, to be effective March 1, 2023. Columbia admits that the Commission docketed the Tariff Supplement. It is admitted that the March 1 Interim Filing reduced default service rates on average 22%. Columbia admits that it filed Tariff Supplement 360 on March 28, 2023, to be effective April 1, 2023. It is admitted that Columbia's annual PGC filing pursuant to 66 Pa. C.S. § 1307(f) was due on April 1, 2023. It is admitted that Tariff Supplements 356 and 360 implemented a reduction in the PGC. It is specifically denied that either Tariff Supplement filing was controversial. It is admitted that the March 1 Interim Filing reduction in the PGC Rider was due, in part, on the drop in market prices for natural gas.

By way of further answer, nothing in Section 1307(f) prohibits a utility from making an interim adjustment to its PGC. See 66 Pa. C.S. § 1307(f)(1)(i). The drop in market prices was significant in late 2022. Had Columbia not made the March 1 Interim Filing, the PGC reduction would have been reflected in the April 1 Quarterly Filing anyway, but the Company would have over-collected an estimated additional \$5.6 million from customers from March 1 to April 1 along with the \$18.7 million over-collected from January 1 – February 28. Further, in the absence of the March 1 Interim Filing, Columbia projected a 33% reduction in rates beginning October 1, 2023, due to the return to customers of the overcollection plus interest included in the E-factor. By making the March 1 Interim Filing, Columbia’s customers kept approximately \$26 million in their households, and Columbia saved approximately \$1.9 million in interest it would have had to otherwise include on the over-collected purchased gas costs from customers. Columbia submits that the March 1 Interim Filing and the April 1 Quarterly Filing brought the PGC closer to the actual cost of natural gas in the market, which is appropriate to prevent the market distortion to which RESA complains.

By way of further answer, the April 1 Quarterly Filing was not an “interim” PGC filing. Rather the April 1 Quarterly Filing was a regular quarterly PGC reconciliation filing made pursuant to Columbia’s normal schedule for such filings pursuant to 52 Pa. Code § 53.64(i)(5).

Furthermore, RESA’s Petition is improper in so far as it challenges Columbia’s April 1 Quarterly Filing, as the Commission’s regulations provide that interested parties may challenge a quarterly PGC filing only in the utility’s next annual Section 1307(f) proceeding. See 52 Pa. Code § 53.64(i)(5)(iv).

2. The assertions in this paragraph are legal conclusions to which no response is required. Columbia admits that it makes quarterly PGC reconciliation filings on or about July 1,

October 1, December 1 and April 1 of each year. As such, the April 1 Quarterly Filing, with which RESA takes issue in its Petition, was a regularly scheduled filing.

3. It is admitted, upon information and belief, that RESA is an association of energy suppliers that includes Natural Gas Suppliers (“NGSs”) licensed by the Commission to sell natural gas supply to retail customers in Pennsylvania and in Columbia’s service territory. It is admitted that there are Commission regulations applicable to the sale of natural gas supply to retail customers in Pennsylvania by NGSs. The regulations speak for themselves. The remaining averments in this paragraph are denied.

4. It is admitted that Columbia made the March 1 Interim Filing and the April 1 Quarterly Filing. It is admitted that both filings were effective on less than 30 days’ notice. It is denied that 30 days’ notice is required; rather, the Commission’s regulations provide that quarterly filings shall become effective on one day’s notice. See 52 Pa. Code. § 53.64(i)(5)(iv). It is denied that the April 1 Quarterly Filing did not have an effective date on a date assigned to Columbia for quarterly filings. By way of further answer, Columbia incorporates its response to Paragraphs 1 and 2, *supra*, herein.

5. The averments in this paragraph are mere conjecture and inflammatory. Any inference that Columbia engaged in market manipulation is specifically denied. By way of further answer, Columbia is obligated to comply with a least cost fuel procurement policy. See 66 Pa. C.S. § 1318(a). Columbia’s March 1 Interim Filing and April 1 Quarterly Filing are in furtherance of such policy. Columbia incorporates its response to Paragraph 1, *supra*, and Paragraph 14, *infra*, herein.

6. The averments in this paragraph are denied to the extent they are conjecture and assumptions. Specific proof of the averments is demanded.

7. The assertions in this paragraph are legal conclusions to which no response is required. It is specifically denied that there is a controversy or uncertainty that requires the Commission to issue a declaratory order. Columbia incorporates its response to Paragraph 1, *supra*, herein.

8. The assertions in this paragraph are legal conclusions to which no response is required. The Commission's regulations speak for themselves. Columbia incorporates its response to Paragraph 1, *supra*, herein.

9. The assertions in this paragraph are legal conclusions to which no response is required. Columbia incorporates its response to Paragraph 1, *supra*, herein.

10. It is specifically denied that Columbia made two interim PGC filings. By way of further answer, Columbia incorporates Paragraph 1, *supra*, herein. Further, it is denied that an interim PGC filing is appropriate only in "extraordinary circumstances." See e.g. 66 Pa. C.S. § 1307(f)(1)(i).

11. It is specifically denied that a cease-and-desist order is appropriate or necessary under the facts of RESA's Petition. Columbia incorporates its response to Paragraph 1, *supra*, herein.

12. The assertions in this paragraph are legal conclusions to which no response is required. Columbia incorporates its response to Paragraph 1, *supra*, herein.

13. The assertions in this paragraph are legal conclusions to which no response is required. It is specifically denied, however, that the case cited by RESA supports RESA's averments in its Petition that interim PGC filings are generally prohibited as harmful to competition. In UGI Utilities, Inc. – Gas Division, Docket No. R-00038411 (Order entered Nov. 24, 2003) ("UGI"), UGI made an interim PGC filing during the pendency of its annual Section

1307(f) case, which lowered the PGC rate by 17% for the remaining four months of the PGC period. UGI at 3. The interim PGC filing had the effect of spreading accumulated over or under-collections over less than a twelve-month period, when historically, UGI had spread such over/under-collections over twelve months. UGI at 17-18. The Commission directed UGI to refrain from filing interim PGC rates that recover actual experienced over or under-collections on less than an annual basis because customers may not be fully reimbursed. UGI at 18-19. The Commission's reference to this particular interim filing being anti-competitive was related to UGI's manipulation of the period for the return of over/under-collections from twelve months to four months, which could result in customers being short-changed. UGI at 19.

Columbia's March 1 Interim Filing is distinguishable from the interim filing in UGI because Columbia did not alter the period for the return of over-collections. Instead, Columbia changed the C-Factor that was resulting in significant over-collection so that customers could keep these funds in their households and so that Columbia could avoid the significant interest that would be required when returning the over-collection to customers. The Commission has permitted interim PGC rate filings in instances where gas prices are particularly volatile, which were the circumstances that led to the March 1 Interim Filing. See Columbia Gas of Pennsylvania, Inc. Petition Concerning a Change in Purchased Gas Costs, P-00062200 (Order entered Jan. 27, 2006).

14. Section 1307(f) permits certain Natural Gas Distribution Companies ("NGDCs") to file tariffs reflecting actual or projected increases or decreases in natural gas costs. See 66 Pa. C.S. § 1307(f)(1). This subsection was added to the Public Utility Code in 1984, well before the Natural Gas Choice and Competition Act (1999). As such, PGC adjustments and filing requirements were implemented with no connection to competition in Pennsylvania. While RESA's averment that the Price to Compare ("PTC") is the index for the market price offered by

suppliers to retail customers may be true, it is specifically denied that the PTC is fully and completely connected to the natural gas market. Instead, the PTC includes a C-Factor, which is a *projection* of gas prices (not actual gas prices) and an E-Factor, which is a reconciliation of over/under collections from the prior PGC period with interest. In times, such as recently, when the projection of gas prices reflected in the C-Factor was much higher due to global conditions/conflicts, but actual gas prices were significantly lower than projected, the PTC is artificially high. NGDCs pass the price of gas on to customers; there is no profit for NGDCs on supply. With no change to the PGC to reconcile the significant, unexpected inaccuracy of the C-Factor until the next quarterly filing, the subsequent E-Factor will include the return of an enormous overcollection plus interest, which also artificially inflates the PTC.

The only beneficiaries of an artificially high PTC, when actual gas prices are low, are NGSS because they can offer a rate that competes with an artificially high PTC, while paying low gas costs to supply the commodity. In this situation, the profit margins for NGSS are extraordinarily high, and they keep all these profits. The losers in this situation are default customers because they are paying artificially high commodity prices when they could, with an adjustment to the PGC, pay prices that are closer to actual gas prices and have more money available for use by the household. Further, Columbia's avoidance of significant interest on overcollections that would be due in this circumstance frees up the funds for other uses, such as pipe repair and replacement.

15. It is admitted that Columbia did not make an interim PGC filing in the second half of 2022. Columbia, however, submitted all required quarterly PGC filings in 2022. The remaining averments are as specifically denied as inflammatory conjecture. By way of further answer, Columbia incorporates Paragraph 14, *supra*, herein.

16. The assertions in this paragraph are legal conclusions to which no response is required. It is specifically denied, however, that the case cited by RESA supports RESA's averments in this paragraph. By way of further answer, Columbia incorporates Paragraph 13, *supra*, herein.

17. It is specifically denied that interim PGC adjustments are anti-competitive or distort the market. It is specifically denied that Columbia's April 1 Quarterly Filing was an "interim" PGC filing. Rather the April 1 Quarterly Filing was a regular quarterly PGC reconciliation filing made pursuant to Columbia's normal schedule for such filings pursuant to 52 Pa. Code § 53.64(i)(5). After reasonable investigation, Columbia is unable to admit or deny RESA's claims regarding the impossibility of suppliers to price products when PGC adjustments are made, and therefore, such averment is denied. It is denied that Columbia's March 1 Interim Filing was in any way improper. By way of further answer, Columbia incorporates Paragraph 14, *supra*, herein.

18. The assertions in this paragraph are legal conclusions to which no response is required. It is specifically denied, however, that the case cited by RESA supports RESA's averments in this paragraph. By way of further answer, Columbia incorporates Paragraph 13, *supra*, herein.

III. CONCLUSION

WHEREFORE, Columbia Gas of Pennsylvania, Inc. respectfully requests that the Commission deny RESA's Petition for Declaratory Order.

Respectfully submitted,



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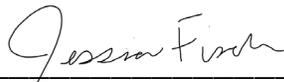
Date: May 1, 2023

*Attorneys for Columbia Gas of
Pennsylvania, Inc.*

VERIFICATION

I, Jessica Fischer, being Lead Regulatory Analyst of Columbia Gas of Pennsylvania, Inc., hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 5/1/2023



Jessica Fischer
Lead Regulatory Analyst
Columbia Gas of Pennsylvania, Inc.

CERTIFICATE OF SERVICE

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

VIA E-MAIL ONLY

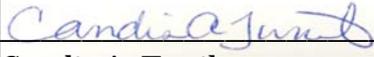
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Dated May 1, 2023


Candis A. Tunilo