BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-2024-3046519
Office of Small Business Advocate	:	C-2024-3047905
Office of Consumer Advocate	:	C-2024-3047675
Ronald T. Bernick	:	C-2024-3048339
Linda Allison	:	C-2024-3048588
Philip Bloch	:	C-2024-3048478
Pennsylvania State University	:	C-2024-3048624
Daniel E. Skarvala	:	C-2024-3049677
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	

RECOMMENDED DECISION

Before
Jeffrey A. Watson
Administrative Law Judge

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I. INTRODUCTION

This decision recommends approval, without modification, of a Joint Petition for Partial Settlement of Columbia Gas of Pennsylvania, Inc's gas base rate increase request because the settlement is in the public interest.

The Settlement provides for an increase in rates designed to produce an additional $74.0 million in annual base rate operating revenues instead of the Company's filed increase request of approximately $124.1 million. If approved, Columbia will receive an increase in existing base rate operating revenues of approximately 9.41% instead of the requested 15.79% increase. A typical residential sales customer using 70 therms of gas per month will see an increase in their monthly bill from $118.16 to $128.06, or by 9.06%, instead of the monthly increase from $118.16 to $136.92 per month, or 15.88%, that was originally requested. A typical small commercial sales customer using 150 therms of gas per month will see an increase in their monthly bill from $196.43 to $215.72, or by 9.82%, instead of the monthly increase from $196.43 to $226.24 per month, or 15.18%, that was originally requested. The Tariff rates will go into effect on December 14, 2024.

This Decision also recommends that the Commission reject Columbia's request to implement a municipal levelization charge (MLC).

II. HISTORY OF THE PROCEEDINGS

On March 15, 2024, Columbia Gas filed with the Commission, Supplement No. 374 to its Tariff Gas – Pa. P.U.C. No. 9. Supplement No. 374 was issued to be effective for service rendered on or after May 14, 2024. It proposed changes to Columbia's distribution base rates designed to produce an increase in annual revenues of approximately

$124.1 million based upon data for a fully projected future test year (FPFTY) ending December 31, 2025.

On March 18, 2024, the Pennsylvania Weatherization Providers Task Force, Inc. filed a Petitions to Intervene.

On March 20, 2024, the Office of Consumer Advocate filed a Formal Complaint (Complaint) at Docket No. C-2024-3047675.

On March 21, 2024, the Commission's Bureau of Investigation and Enforcement filed a Notice of Appearance.

On March 27, 2024, the Office of Small Business Advocate filed a Formal Complaint at Docket No. C-2024-3047905.

On March 29, 2024, Ronald T. Bernick filed a Formal Complaint at Docket No. C-2024-3048339.

On April 4, 2024, the Commission issued an Order suspending Columbia's Supplement No. 374 by operation of law until December 14, 2024. Also on April 4, 2024, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene.

On April 8, 2024, Linda Allison filed a Formal Complaint at Docket No. C-2024-3048588.

On April 15, 2024, Philip Bloch filed a Formal Complaint at Docket No. C-2024-3048478.

On April 10, 2024, a Call-In Telephone Prehearing Conference Notice (Conference Notice) was issued scheduling an initial telephonic prehearing conference in this case is scheduled for April 17, 2024.

By Prehearing Conference Order dated April 10, 2024, Columbia, OCA, OSBA, I&E, Pennsylvania Weatherization Providers Task Force, Inc., and CAUSE-PA were notified that the proceeding was assigned to the undersigned Administrative Law Judge (ALJ or Presiding Officer) for a telephonic Prehearing Conference on April 17, 2024, at 10:00 a.m. In accordance with the regulations pertaining to prehearing conferences, 52 Pa. Code §§5.221-5.224, the parties were directed to file their prehearing memoranda on or before April 15, 2024.

The Parties timely filed prehearing memoranda. The Prehearing Conference proceeded as scheduled on April 17, 2024. Counsel for Columbia, OCA, OSBA, I&E, Pennsylvania Weatherization Providers Task Force, Inc., and CAUSE-PA, as well as Ronald Bernick participated in the Prehearing Conference, which resulted in the establishment of a litigation schedule and an agreement regarding various scheduling and procedural matters.

On April 18, 2024, a Prehearing Order was entered which, among other things, adopted discovery deadlines and a litigation schedule.

On April 22, 2024, the Pennsylvania State University filed a Formal Complaint at Docket No. C-2024-3048624.

On May 1, 2024, a public input hearing notice was issued which scheduled in-person public input hearings for Tuesday, May 21, 2024, at 1 p.m. and 6 p.m. and telephone public input hearings for Wednesday, May 22, 2024, at 1 p.m. and 6 p.m.

On May 21, 2024, the undersigned presiding officer convened the initial in-person public input hearing at 1:00 p.m. Two individuals, Richard Culbertson and Gordon Lowry provided testimony. Richard Culbertson provided the undersigned presiding officer with a thirty-six-page packet of information, including Appendices I, II and III, which was marked for identification purposes as Culbertson Exhibit 1. Richard Culbertson provided extensive testimony and requested that Culbertson Exhibit 1 be admitted into evidence. The document was provided by Mr. Culbertson to some of the parties and to the undersigned presiding officer on the hearing date at approximately 10 a.m. by email transmission and to all of the parties prior to taking testimony from Mr. Culbertson. After providing the Parties with an opportunity to address the request by Mr. Culbertson, and given the voluminous nature of the exhibit and the relatively short period of time that Parties had to review the exhibit the undersigned presiding officer advised the Parties that an Order would be entered providing a deadline of May 29, 2024 to file and serve objections to Culbertson Exhibit 1 and June 5, 2024 to file and serve responses to the objections.

On May 21, 2024, at 6:00 p.m. the undersigned presiding officer convened the second in-person public input hearing. No one provided testimony and the hearing was adjourned.

On May 22, 2024, the undersigned presiding officer convened the initial telephone public input hearing at 1:00 p.m. Six individuals, Daniel Skvarla, Renee Rothwell, Philip Bloch, Linda Mosley, Raymond Berisko and Corey Burnett appeared and provided sworn testimony, with the exception of Raymond Berisko, who made an unsworn statement off the record. At the conclusion of the hearing, and while the Parties were disconnecting from the call, Linda Mosley stated that she wanted to add something to or clarify her testimony. The undersigned presiding officer asked Ms. Mosley to call into the 6:00 p.m. hearing to make her request, once the Parties were available.

On May 22, 2024, the undersigned presiding officer convened the second telephone public input hearing at 6:00 p.m. Linda Mosley appeared and without objection from any party, Ms. Mosley supplemented her prior testimony and the hearing was adjourned as no other member of the public offered to provide testimony.

On May 23, 2024, an Interim Order was entered permitting the Parties to file objections to the evidence offered by Richard Culbertson by May 29, 2024, and permitting the Parties and Richard Culbertson to file a response to the Objections by June 5, 2024.

On May 29, 2024, Columbia filed its Objections to the testimony and exhibit of Richard C. Culbertson. At paragraph 6 of its Objections, Columbia objected to certain portions of Mr. Culbertson's testimony and Culbertson Exhibit 1 as being irrelevant to the rates and service of Columbia. At paragraph 7 of its objections, Columbia objected to certain portions of Mr. Culbertson's testimony and Culbertson Exhibit 1, as hearsay. Columbia also objected at paragraph 8 of its Objections, to certain portions of Mr. Culbertson's testimony and Culbertson Exhibit 1, arguing they raised issues and claims that were previously decided by the Commission and the Commonwealth Court.

On May 30, 2024, Daniel E. Skvlara filed a Formal Complaint at C-2024-3049677.

On May 31, 2024, Richard C. Culbertson filed Objections to the Objections of Columbia.

On June 20, 2024, an Interim Order was entered denying the Objections of Columbia Gas set forth in Paragraphs 6 and 8 of Columbia's Objections and sustaining the hearsay Objections of Columbia Gas set forth in Paragraph 7 of Columbia's

Objections. The Interim Order further provided that the evidence provided by Mr. Culbertson at the public input hearing identified in Paragraphs 6 and 8 of Columbia's Objections would be admitted to the hearing record, that the presiding officer would determine the weight, if any, which the evidence would carry, and Columbia could provide rebuttal evidence to the admitted evidence. The Interim Order further provided that the objections to the evidence provided through Mr. Culbertson at the public input hearing identified in Paragraph 7 of Columbia's Objections were sustained and the hearsay evidence would be stricken from the hearing record.

On June 20, 2024, Columbia filed the Motion for Protective Order of Columbia Gas of Pennsylvania, Inc. No objections were filed and on July 17, 2024, a Protective Order was entered.

On July 18, 2024, an Interim Order was entered setting various deadlines and procedures for the evidentiary hearing and post hearing filings.

On July 26, 2024, an Interim Order was entered setting additional procedures for the evidentiary hearing.

By agreement of the Parties, the evidentiary hearing scheduled for July 31, 2024, was cancelled and the evidentiary hearing was convened on August 1, 2024 at 10:00 a.m. Columbia appeared and was represented by Attorney Megan Rulli, Attorney Michael Hassell, Attorney Candis Tunilo, and Attorney Victoria Howell. I&E participated and was represented by Attorney Scott Granger. OCA appeared and was represented by Attorney Melanie El Atieh. OSBA participated at the hearing and was represented by Attorney Steve Gray. Pennsylvania State University appeared and was represented by Attorney Phillip Demanchick. CAUSE-PA participated and was represented by Attorney Elizabeth Marx. The Pennsylvania Weatherization Providers Task Force Inc. appeared and was represented by Attorney Joseph Vullo. Individual

Complainant Daniel E. Skvarla participated at the hearing and was not represented by counsel.

In addition, the following evidence was admitted into the record at the evidentiary hearing:

Columbia Exhibits:

Columbia Statement 1 (Direct Testimony of Mark Kempic with Exhibits MRK-1 and MK-2).

Columbia Statement 1-R (Rebuttal Testimony of Mark Kempic with Exhibits MRK-1R-1 through MRK-1R-4).

Columbia Statement 2 (Direct Testimony of Michael E. Girata).

Columbia Statement 2-R (Rebuttal Testimony of Michael E. Girata).

Columbia Statement 3 (Direct Testimony of May Battig with Exhibits MLB-1 through MLB-3).

Columbia Statement 3-R (Rebuttal Testimony of May Battig).

Columbia Statement 3-RJ (Rejoinder Testimony of May Battig).

Columbia Statement 4 (Direct Testimony of Brittany Komenda with Exhibit BJK-1).

Columbia Statement 4-R (Rebuttal Testimony of Brittany Komenda with Exhibit BJK-1).

Columbia Statement 4-RJ (Rejoinder Testimony of Brittany Komenda with Confidential Exhibit BJK-RJ-1).

Columbia Statement 5 (Direct Testimony of John Spanos with Appendix A and Exhibit JJS-1).

Columbia Statement 5-R (Rebuttal Testimony of John Spanos with Exhibits JJ-SR-1 through JJ-SR-3).

Columbia Statement 5-RJ (Rejoinder Testimony of John Spanos).

Columbia Statement 6 (Direct Testimony of Kevin Johnson with Exhibits KLJ-1 through KLJ-11).

Columbia Statement 6-R (Rebuttal Testimony of Kevin Johnson with Exhibits KLJ-1R and KLJ-2R).

Columbia Statement 6-SR (Surrebuttal Testimony of Kevin Johnson Public and Confidential).

Columbia Statement 6-RJ (Rejoinder Testimony of Kevin Johnson with Exhibit KLJ-R-1).

Columbia Statement 7 (Direct Testimony of Ray Brumley).

Columbia Statement 8 (Direct Testimony of Paul Moul).

Columbia Statement 8-R (Rebuttal Testimony of Paul Moul with Exhibit PRM-1R).

Columbia Statement 9 (Direct Testimony of Nicole Paloney with Exhibit NP-1).

Columbia Statement 10 (Direct Testimony of Jennifer Harding).

Columbia Statement 10-R (Rebuttal Testimony of Jennifer Harding with Exhibit JH-10-R).

Columbia Statement 10-RJ (Rejoinder Statement of Jennifer Harding with Schedule JS-10-RJ).

Columbia Statement 11 (Direct Testimony of Julie Covert with Exhibits JEC-1 and JEC-2).

Columbia Statement 11-R (Rebuttal Testimony of Julie Covert).

Columbia Statement 12 (Direct Testimony of Ribeka Danhires).

Columbia Statement 12-R (Rebuttal Testimony of Ribeka Danhires with Attachment A).

Columbia Statement 13 (Direct Testimony of Theodore Love with Exhibits TML-1 through TML-3).

Columbia Statement 14 (Direct Testimony of Brian McCaul).

Columbia Statement 15 (Direct Testimony of Nicholas Bly with Exhibits NB-1 and NB-2).

Columbia Statement 15-R (Rebuttal Testimony of Nicholas Bly).

Columbia Statement 16 (Direct Testimony of Gregory Skinner with Exhibit GS-1).

Columbia Statement 17-R (Rebuttal Testimony of George Dice with Exhibits GDR-1 through GDR-3).

Columbia Statement 18-R (Rebuttal Testimony of Deborah Davis).

Columbia Statement 19-R (Rebuttal Testimony of Kimberly Cartella with Exhibits KC-1R).

Columbia Statement 20-R (Rebuttal Testimony of David Bokash).

Columbia Statement 21-R (Rebuttal Testimony of Jason Leal Public and Confidential).

I&E Exhibits:

I&E Statement 1 (Direct Testimony of Christian Yingling with Exhibit 1 Public and Confidential).

I&E Statement 1-R (Rebuttal Testimony of Christian Yinglng with Exhibits Public and Confidential).

I&E Statement 1-SR (Surrebuttal Testimony of Christian Yingling Public and Confidential).

I&E Statement 2 (Direct Testimony of D.C. Patel with Exhibit 2).

I&E Statement 2-SR (Surrebuttal Testimony of D.C. Patel).

I&E Statement 3 (Direct Testimony of Esyan Sakaya).

I&E Statement 3-SR (Surrebuttal Testimony of Esyan Sakaya).

OCA Exhibits:

OCA Statement 1 (Direct Testimony of David E. Dismukes with Appendix A and Exhibits DED-1 through DED-10).

OCA Statement 2 (Direct Testimony of Greg Meyer with Appendix A and Exhibit 1; Confidential and Public Versions).

OCA Statement 3 (Direct Testimony of Christopher C. Walters with Verification; Appendix A and Exhibits CCW-1 through CCW-15).

OCA Statement 4 (Direct Testimony of Brian C. Andrews with Verification; Appendix A and Exhibits BCA-1 through BCA-4).

OCA Statement 5 (Direct Testimony of Jerome D. Mierzwa with Verification).

OCA Statement 6 (Direct Testimony of Roger D. Colton with Verification and Exhibits RDC-1 and RDC-2).

OCA Statement 7 (Corrected Direct Testimony of Nicholas A. DeMarco with Verification and Exhibit NAD-1).

OCA Statement 2-R (Rebuttal Testimony of Greg R. Meyer with Verification).

OCA Statement 3-R (Rebuttal Testimony of Christopher C. Walters with Verification).

OCA Statement 5-R (Rebuttal Testimony of Jerome D. Mierzwa with Verification and Exhibit JDM-1).

OCA Statement 1-SR (Surrebuttal Testimony of David E. Dismukes with Verification and Exhibit DED-SR-1).

OCA Statement 2-SR (Surrebuttal Testimony of Greg Meyer with Verification and Exhibit GRM-SR-1 through GRM-SR-2).

OCA Statement 3-SR (Surrebuttal Testimony of Christopher C. Walters with Verification).

OCA Statement 4-SR (Surrebuttal Testimony of Brian C. Andrews with Verification and Exhibits BCA-SR-1 and BCA-SR-2).

OCA Statement 5-SR (Surrebuttal Testimony of Jerome D. Mierzwa with Verification; Confidential and Public Versions).

OCA Statement 6-SR (Surrebuttal Testimony of Roger D. Colton with Verification).

OCA Statement 7-SR (Surrebuttal Testimony of Nicholas A. DeMarco with Verification).

OSBA Exhibits:

OSBA Statement 1 (Direct Testimony of Mark D. Ewen with Exhibits IEC-1 and IEC-2).

OSBA Statement 1-R (Rebuttal Testimony of Mark D. Ewen with Exhibit IEC-R-1).

OSBA Statement 1-S (Surrebuttal Testimony of Mark D. Ewen with Exhibit IEC-S).

PSU Exhibits:

PSU Statement 1 (Direct Testimony of James L. Crist with Exhibits JLC-1 and JLC-2).

PSU Statement 1-R (Public Corrected Rebuttal Testimony of James L. Crist).

PSU Statement 1-R (Corrected Confidential Rebuttal Testimony of James L. Crist with Confidential Exhibit JLC-1R).

PSU Statement 1-SR (Surrebuttal Testimony of James L. Crist with Exhibits JLC-1-SR and JLC-3-SR Public and Confidential).

PSU Statement 1-SR (Confidential Surrebuttal Testimony of James L. Crist with Exhibits JLC 1-SR through JLC-3-SR).

PWPTF Exhibits:

PWPTF Statement 1 (Direct Testimony of Jennifer Warabak).

On August 14, 2024, an Interim Order was entered, at the request received from Columbia, without objection, extending the deadline for the filing of Main Briefs and any Settlement Petition to August 22, 2024. Columbia was directed, in the event of a full or partial Settlement to serve a copy of any Settlement Petition filed in this proceeding, upon all Parties and all individual Complainants, by August 22, 2024, with instructions that any Objections to the Settlement Petition must be filed with the Commission Secretary and served upon the Parties and the undersigned presiding officer by August 30, 2024.

On August 13, 2024, and August 14, 2024, the undersigned presiding officer received email communications from the Parties advising that the Parties were engaged in Settlement discussions and requesting a revision of the deadline for filing a Settlement Petition and Main Briefs.

On August 14, 2024, an Interim Order was entered which, *inter alia*, extended the deadline for filing Main Briefs and a Settlement Petition to August 22, 2024.

On August 20, 2024, the undersigned presiding officer received an email from counsel for OCA requesting a modification of the litigation schedule. The undersigned provided an email to all Parties proposing options to address the issue raised by OCA and received emails from Parties consenting to a modification proposed by the undersigned presiding officer. On August 21, 2024, an interim Order was entered extending the deadline to August 30, 2024, for the Parties to file their Statements in Support of Settlement.

On August 22, 2024, I&E, OSBA, OCA, PSU, and Columbia (hereinafter collectively referred to as the Joint Petitioners), filed a Joint Petition for Settlement (Joint

Petition or Settlement). CAUSE-PA and PA Task Force did not oppose the Partial Settlement. The Joint Petitioners, CAUSE-PA and PA Task Force will be collectively referred to as the Settling Parties herein.

On August 22, 2024, Main Briefs were filed by Columbia, OCA and CAUSE-Pa on the remaining contested issue.

On August 28, 2024, the Company filed a corrected Joint Petition for Settlement (Corrected Settlement) on behalf of Columbia Gas of Pennsylvania, Inc., which was recently filed in the above-referenced proceeding. The cover letter that accompanied the Corrected Settlement states the prior version contained duplicate numbering of Paragraphs 37 through 39 of the Settlement, specifically, the Paragraph numbers in Sections III.D through V on Pages 9 through 13 of the Settlement have been corrected to be Paragraphs 40 through 63 of the Settlement.

On August 30, 2024, Columbia, I&E, OSBA, OCA and Pennsylvania State University filed Statements in Support of Settlement.

On August 30, 2024, Columbia and OCA filed Reply Briefs.

I did not receive any objections to the Joint Petition for Settlement by the due date of August 30, 2024 and the record closed on that date.

Public Input Hearings

The first in-person public input hearing was held on May 21, 2024 at 1:00 p.m., in Washington, Pennsylvania. Testimony was received from Richard Culbertson and Gordon Lowry.

Mr. Culbertson, a Columbia customer, and owner of rental property serviced by Columbia,[1] characterized himself as an asset management expert[2] and expressed his opposition to the proposed rate increase. He testified that neither Columbia nor the Commission have provided reliable and effective internal controls and that the auditing and oversight by the Commission is not compliant with the legal requirements imposed on the Commission.[3] He also testified that the distribution rate charged by Columbia has significantly increased since 2006.[4]

Mr. Culbertson testified that the Commission has not performed the audits of Columbia that are required by law. He stated that the applicable auditing standard is the General Accounting Office (GAO) Yellow Book which is not utilized by Columbia or the Commission.[5] He further testified that Columbia has capitalized $16,361,000 as its property that consisted of customer service lines owned by property owners and not the Company, and that the cost of customer service line replacement should be paid by the owner.[6] He concluded that the cost of replacing customer service lines should have been charged as donations and not capital expenditures.[7] Mr. Culbertson criticized the way in which lines are replaced by Columbia and stated that the accelerated replacement of suitable-for-use assets are unreasonable and are a waste of Company assets at the expense and detriment of ratepayers.[8]

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1 Tr. 45-47.

2 Tr. 47.

3 Tr. 50, 72-75, 81-86.

4 Tr. 54-55.

5 Tr. 56.

6 Tr. 56-58.

7 Tr. 59-60.

8 Tr. 61-73.

Mr. Culbertson also raised various customer service issues.[9]

Mr. Culbertson complained that he received a bill from Columbia that included a charge of $19.45 for the supply of gas and $116.05 for delivery charges and complained about receiving a letter from Columbia regarding a decrease in his gas usage, which he considered inappropriate.[10]

Columbia customer Gordon Lowry testified that the increase requested by Columbia is nearly a 16% rate increase while the current Consumer Price Index (CPI) is approximately 3.4% and complained about the cost of gas transmission.[11] He noted that he received a bill from Columbia near the end of the heating season for $137 and that over $100 was related to gas transmission and explained that customers would incur the rate increase for their gas usage as well as for increases to costs incurred by schools, hospitals, government buildings and other locations funded by taxpayers.[12] Mr. Lowry asked that the Commission drastically scale back the requested increase.[13]

A second in-person public input hearing was held on May 21, 2024 at 6:00 p.m., in Washington, Pennsylvania. No one appeared to provide testimony at the hearing.

The first telephone public input hearing was held on May 22, 2024, at 1:00 p.m. Testimony was provided by Columbia customers Renee Rothwell, Daniel Skvarla, Philip Bloch, Linda Mosley, and Corey Burnett.

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9 Tr. 85-87, 91, 103.

10 Tr. 92-96.

11 Tr. 121-124.

12 Tr. 122-124.

13 Tr. 124-125.

Ms. Rothwell testified she is a residential and business customer of Columbia and is seriously impacted by expenses significantly exceeding the current rate of inflation. She testified that customers whose incomes are not significantly increasing must find ways to control their expenses and that companies and utilities should be required to do the same. She explained that utilities are not a luxury but are needed for survival and noted that her recent February residential bill included a $21.14 charge for gas but $157.56 for delivery charges, concluding that these costs are continually rising and are out of control. Ms. Rothwell further explained that her February bill included a weather normalization adjustment (WNA) of $28.24, which was more than the cost of gas.[14]

Testimony was also received from Daniel Skvarla. Mr. Skvarla objected to the WNA, testifying it is a charge to customers for using less gas because the climate is warmer and not based on a customer's usage.[15]

Philip Bloch, a Complainant and customer of Columbia, objected to the gas delivery costs charged by the Company and testified that Columbia can charge the excessive distribution expenses because it has a monopoly on distribution. He asserted that Columbia's rates are unreasonable and requested that the Commission deny the requested rate increase.[16]

Linda Mosley testified that she sets her thermostat at about 63 degrees for most of the wintertime and believes that the WNA charge is unfair. She further explained that her gas cost makes up approximately 15% of her Columbia bill and distribution

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[14] Tr. 153-156.

[15] Tr. 172-175.

[16] Tr. 182-186.

charges make up approximately 85%. She testified her March bill includes a gas charge of $48.73, a weatherization normalization charge of $71.94 and distribution charges of $350.96. Ms. Mosley testified she is on a fixed income and must limit her gas usage to manage her utility expense. Ms. Mosley opposed the weatherization charge.[17]

Testimony was also received from Corey Burnett. Mr. Burnett testified that his January Columbia gas bill includes a gas supply charge of approximately $20 and also includes a flat rate customer charge to cover a portion of the cost of installing, maintaining, and replacing pipelines, meters and other equipment, as well as servicing the accounts. He also testified his charge of approximately $309 includes a charge of approximately $16.75 for the cost of new pipelines and other expenses. He stated his bill also included a $24.59 weather normalization adjustment. Mr. Burnett concluded that an increase in the bills would be unjust, and he cannot afford an increase in his bill.[18]

A final telephone public hearing was held at 6:00 p.m. At the conclusion of the 1:00 p.m. hearing, Linda Mosley stated that she would like to add something to her testimony. As the hearing had concluded and counsel had left the telephone call, I asked Ms. Mosley to appear at the 6:00 p.m. hearing to make her request. Without objection from any party, Linda Mosley clarified and supplemented her testimony from the 1:00 p.m. hearing.[19]

Ms. Mosley testified that her March gas bill for her small two-bedroom home included a supply charge of $48.73, a WNA charge of $71.94 and delivery charges of $350.96. She testified her January bill included a supply charge of $75.54 and

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17 Tr. 193-197.

18 Tr. 205-210.

19 Tr. 221-224.

delivery charges of $430.42. She testified her February bill included a supply charge of $63.40, a WNA charge of $79.23 and delivery charges of $437.31.[20]

Findings Of Fact

1. Columbia Gas of Pennsylvania, Inc. is a public utility and natural gas distribution company as those terms are defined in Sections 102 and 2202 of the Public Utility Code (Code), 66 Pa.C.S. §§ 102 and 2202.

2. Columbia provides natural gas sales, transportation, and/or supplier of last resort services to approximately 445,000 retail customers in portions of 26 counties of Pennsylvania. Columbia St. No. 1, pp. 3-4.

3. Columbia has proposed to adopt a revenue neutral Municipal Levelization Charge (MLC) on an experimental basis, with a stated goal to foster fairness and to discourage municipalities from adopting costly road permitting and restoration requirements that increase the cost of Columbia's pipeline replacements program. Columbia St. No. 1, p. 22.

4. Columbia proposes to charge customers located in the City of Pittsburgh and the Borough of Perryopolis a monthly charge of $0.70 per bill, and to provide a credit of $7.44 per bill to customers located in Roscoe Borough and New Sewickley Township. Columbia St. No. 9, p. 19.

5. The MLC would charge residents of Pittsburgh (Allegheny County) and Perryopolis (Fayette County) regardless of customer class and based solely on their municipality. OCA St. 5 at 29.

[20] Tr. 225-229.

6. Columbia's proposed MLC would charge additional fees to some customers based solely on their location and using that money to provide substantial credits to other customers based solely on their location. OCA St. 5 at 29-30.

7. The MLC isolates a single component of the cost of service that differs between municipalities (i.e. municipal paving and restoration requirements), which accounts for "less than 1% difference in the cost of serving customers in different municipalities and ignores cost differences which may exist for the remaining 99% of the cost of service." OCA St. 5-SR at 38.

8. Columbia has a robust main replacement program to accelerate the replacement of priority pipe that began in 2007. Columbia St. No. 1, p. 7.

9. Currently Columbia recovers its paving and restoration costs through base rates from all customers. OCA St. 5 at 28.

10. The Company spent nearly $1.3 million of its capital program to pave above and beyond the standards for state highways in Pennsylvania. OCA St. 5 at 28.

11. Since the beginning of the Company's program to accelerate the replacement of priority pipe, Columbia has replaced over 1,408 miles of cast iron and bare steel pipe, as well as over 274 miles of pre-1971 ineffectively coated steel pipe and over 142 miles of pre-1982 plastic pipe (collectively priority pipe). Columbia St. No. 1, p. 7.

12. Columbia still has a substantial number of mains and bare steel customer services remaining to be replaced. Columbia St. No. 1, pp. 14-15.

13. To serve the City of Pittsburgh, Columbia has installed an average of 54 feet of distribution main per customer. OCA St. 5 at 29.

14. To serve New Sewickley Township, Columbia has installed an average of 142 feet of distribution main per customer. OCA St. 5 at 29.

15. The average feet of distribution mains installed by Columbia to serve a customer in the City of Pittsburgh is much lower than the average feet of distribution mains installed by Columbia to serve a customer in New Sewickley Township. OCA St. 5SR at 41; OCA St. 5 at 29. However, under the MLC, City of Pittsburgh customers would be assessed higher charges than New Sewickley Township customers, and the MLC fails to account for the lower costs of the distribution mains serving the City of Pittsburgh. OCA St. 5 at 29; OCA St. 5SR at 41.

16. While the same MLC would be assessed to all customers in a municipality served by Columbia, the MLC does not recognize differences in the costs associated with serving different customer classes. OCA St. 5 at 30.

17. Columbia currently serves a total of 22,604 customers in the City of Pittsburgh and the Borough of Perryopolis which would be assessed the MLC, and a total of 2,116 customers in New Sewickley Township and Roscoe Borough that would receive the MLC credit. OCA St. 5 at 30.

18. Pittsburgh residents are already facing cumulative impacts of multiple utility rate increases that overlap in their service territory. OCA St. 6 at 27-29.

19. The cumulative rate increases, on top of Columbia's requested rate increase would drastically increase total utility bills for Pittsburgh residential customers who live in the overlapping service territories. *Id.* at 28-30.

20. Columbia's low-income customers are facing increasingly unaffordable heating burdens given the Company's ongoing rate increases. *Id.* at 11.

21. While customers enrolled in Columbia's customer assistance program (CAP) would be partially insulated from the impact of the MLC, Columbia has only enrolled roughly 25% of its estimated low-income customer population into CAP. *Id.* at 18-19.

22. The MLC would still be assessed to customers who are enrolled in CAP, thus increasing the cost of CAP. CPA Proposed Tariff p. 144.

23. Over the past fifteen years, the cost per foot to replace pipe has increased from $81.25 to $289. Columbia St. No. 1, p. 18.

24. While some of the cost increase can be explained by inflationary increases in material, supplies and labor, costs for restoration and permitting fees mandated by local ordinances has also contributed to this cost increase. Columbia St. No. 1, p. 18.

25. For two proposed pipeline projects in one Pennsylvania township, Columbia calculated the permitting and restoration costs demanded by the township compared to what would be required under PennDOT requirements. Columbia St. No. 1, p. 19.

26. Under PennDOT requirements, the permit fees for these projects would be $2,510; while under the township's ordinance, permitting and engineering fees would be $143,740, making the township's costs 57 times the cost of PennDOT's requirements. Columbia St. No. 1, p. 19.

27. Under the PennDOT requirements, found in 67 Pa. Code § 459.8, disturbed roadways must be restored by milling and overlaying the traffic lane in which an opening or openings were made by using paving at 1.5 inches thick. Columbia St. No. 1, p. 19.

28. If four or more openings were made that cross the street within 100 linear feet, the utility must overlay the entire disturbed area, which is commonly called "curb to curb" restoration. Columbia St. No. 1, pp. 19-20.

29. Some municipal ordinances require curb to curb paving and 3 and one-half inches or even 4 inches overlay paving thickness in virtually all circumstances. Columbia St. No. 1, p. 20.

30. One municipality requires curb to curb paving plus paving a distance of 25 feet on both sides of a street cut. If the PennDOT permitting and restoration requirements would be applied, Columbia's customers would be responsible for $260,000 in paving and restoration costs. Under the borough's demands, customers are ultimately responsible for paying $470,000 for permitting and restoration, nearly double the cost. Columbia St. No. 1, p. 20.

31. Columbia’s service territory includes approximately 450 separate municipalities. Each of these municipalities has its own ordinances and permitting rules. Columbia St. No. 1, p. 20.

32. Columbia has a Public Affairs team, supplemented by local operations employees, who engage in proactive municipal outreach to explain to municipal leaders the benefits of the Company's main replacement efforts and the need for reasonable permit fees and restoration requirements. Columbia St. No. 7, pp. 16-17.

33. The Public Affairs team is responsible for monitoring municipal ordinances and amendments that may unreasonably increase fees or add restoration requirements. Columbia St. No. 7, pp. 16-17.

34. In 2023, Columbia's Public Affairs team undertook proactive outreach efforts in nearly 100 municipalities in fourteen counties around the Commonwealth. Columbia St. No. 7, pp. 18-20.

35. After a main replacement project has been identified, Columbia applies for all necessary permits and reviews relevant municipal ordinances for restoration requirements. Columbia reviews the fees and requirements for reasonableness. Columbia St. No. 1, p. 21.

36. When fees or requirements appear to Columbia to be unreasonable, Columbia will, whenever possible, seek to negotiate more reasonable terms with the municipality. Columbia St. No. 1, p. 21.

37. Negotiation is not always an available option, particularly where a main repair or replacement must be undertaken without delay due to a gas leak. Columbia St. No. 1, p. 21.

38. Columbia has been successful, in some instances, in convincing municipalities to reduce, but not necessarily eliminate, fees and restoration standards

above PennDOT requirements. Columbia St. No. 7, pp. 22-26; Columbia St. No. 9, pp. 16-17.

39. Negotiations are undertaken on a project-by-project basis, adding costs and delays and without long-term assurance that higher permitting fees and restoration requirements contained in municipal ordinances will not be applied to future projects. Columbia St. No. 9, p. 18.

40. Where negotiations are unsuccessful, and where projects need not proceed immediately, Columbia may proceed with litigation to challenge what it believes to be illegal or unreasonable fees or requirements. Columbia St. No. 7, p. 24.

41. In October 2022, Columbia filed a petition in the Commonwealth Court of Pennsylvania challenging certain ordinances of Menallen Township, Fayette County, that impose permitting and right-of-way fees that Columbia asserts are illegally excessive. This litigation remains pending. Columbia St. No. 7, p. 24.

42. Columbia proposes to limit the initial MLC to municipalities that have requirements which it has identified as substantial outliers from PennDOT paving requirements. Columbia St. No. 9, p. 18.

43. To select the municipalities subject to the MLC, first the Company reviewed all construction projects for the calendar years of 2021, 2022 and 2023 for the municipalities that Columbia determined had ordinances that were beyond the requirements of the PennDOT standard and determined whether those municipalities agreed to lower restoration requirements. Columbia St. No. 9, p. 18.

44. Two municipalities had ordinances that exceeded PennDOT standards and did not agree to negotiate lower standards, which resulted in costs in excess

of PennDOT standards being incurred during these time periods - the City of Pittsburgh and the Borough of Perryopolis. Columbia St. No. 9, p. 18.

45. No evidence was presented to explain the reasons or justification of the City of Pittsburgh and the Borough of Perryopolis requirements or the factual basis for their specific enactments.

46. The Company also reviewed which municipalities permit restoration back to original condition, which is less than the PennDOT standards. These municipalities are New Sewickley Township and Roscoe Borough. Columbia St. No. 9, p. 18.

47. No specific evidence was provided regarding the ordinances or requirements enacted by Roscoe Borough and New Sewickley Township, their road composition or other factors specific to these municipalities, or whether the propose to adopt any changes to their paving and permitting requirements.

48. To determine the incremental costs above PennDOT standards for the City of Pittsburgh, Columbia compared the average cost of the 3.5 and 4.0 inch mill and overlay (M&O) requirement of the City of Pittsburgh to the average cost of 1.5-inch M&O, which is the PennDOT standard. Columbia St. No. 9, p. 18.

49. The difference was applied to the number of yards paved for the period 2021-2023, resulting in excess costs for paving only of $1.3 million, not taking into account other requirements considered by Columbia to be excessive or permit fees. Columbia St. No. 9, p. 19.

50. A similar calculation was prepared for the Borough of Perryopolis, except that the Borough requires a 2.0-inch M&O. This resulted in additional costs of approximately $54,000. Columbia St. No. 9, p. 19.

51. Because these are capital costs, Columbia calculated the resulting annual revenue requirement for these municipalities above PennDOT standards and divided by the total number of annual bills of customers located in those two municipalities to determine the charge, which is $0.70 per bill. Columbia St. No. 9, p. 19.

52. In order to maintain revenue neutrality, the excess revenue requirement amount produced from the MLC to customers in the City of Pittsburgh and the Borough of Perryopolis was divided by the number of customers in Roscoe Borough and New Sewickley Township, which allow restoration back to original condition. Columbia St. No. 9, p. 19.

53. The result is a monthly credit of $7.44 per bill for customers of Roscoe Borough and New Sewickley Township. Columbia St. No. 9, p. 19.

54. Columbia is not proposing a tracking mechanism with the MLC, nor is Columbia proposing a reconciliation mechanism. Columbia St. No. 9, p. 19.

55. In future rate cases, Columbia will examine the impact of the charge in affecting choices made regarding restoration and fee ordinances before determining whether to propose expanding the charge to other municipalities. Columbia St. No. 9, p. 19.

56. Columbia is not seeking to propose separate cost allocation studies for all of its 450 municipalities. Columbia St. No 1-R, p. 11.

57. If calculated per class, the Municipal Levelization Charge would be charged as shown in Table KLJ-5R:

Table KLJ-5R					
	RSS/RDS	SDS/LGSS	SGS/DS-1	SGS/DS-2	Total
MLC Charge	$0.46	$182.19	$1.67	$14.45	$0.70
MLC Credit	$(4.88)	$(1,639.67)	$(22.84)	$(190.04)	$(7.44)

Columbia St. No. 6-R, p. 55.

III. DESCRIPTION OF THE PARTIAL SETTLEMENT

In accordance with Rule 5.231 of the Commission's Rules of Practice and Procedure, 52 Pa. Code § 5.231, the parties explored the possibility of settlement. As a result of settlement discussions, the Joint Petitioners achieved a settlement under which all but one issue, as discussed herein, was resolved. The Joint Petition, which is fully executed by I&E, OSBA, OCA, PSU, and Columbia, consists of 16 pages and Appendix A consisting of the tariff changes included in Supplement 374; Appendix B consisting of the class revenue allocation; Appendix C rate design for all classes and Appendix D, proposed conclusions of law and ordering paragraphs.[21] The Joint Petitioners filed their Statements in Support of Settlement, setting forth the basis upon which each believes the Settlement to be fair, just and reasonable and therefore in the public interest, which were designated as Appendices "E" through "I," with Appendix J containing a Letter of non-opposition to the Partial Settlement by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania.

[21] Appendices E through J to the Joint Petition, which contain the Joint Petitioners Statements in Support of the Settlement, were filed on August 30, 2024.

The Joint Petitioners expressed their agreement with respect to the following issues: (1) Revenue Requirement; (2) Alternative Ratemaking; and (3) Revenue Allocation and Rate Design; (4) Energy Efficiency and Conservation; (5) Universal Service Issues; (6) and Miscellaneous Issues. The Joint Petitioners have specifically agreed to the following settlement terms, as provided below, which are adopted without modification. The issue of whether a Municipal Levelization Charge should be adopted, was reserved for litigation.

IV. SETTLEMENT TERMS

The Joint Petitioners have agreed to the settlement terms as set forth below.[22] These terms are stated verbatim and for ease of reference retain the same paragraph numbers and formatting as they appear in the Settlement.

A. Settlement

1. The following terms of this Settlement reflect a carefully balanced compromise of the interests of all the Joint Petitioners in this proceeding. The Joint Petitioners unanimously agree that the Settlement is in the public interest. The Joint Petitioners respectfully request that the 2024 Base Rate Filing, including those tariff changes included in Supplement No. 374 and specifically identified in Appendix "A" attached hereto, be approved subject to the terms and conditions of this Settlement specified below:

B. Revenue Requirement

2. Rates will be designed to produce an increase in annual operating revenues of $74.0 million over current base rates based upon the pro forma level of operations for the twelve months ended December 31, 2025.

3. The state income tax rate in this proceeding will be set at 7.99% and has been reflected in the settlement revenue requirement. The Company will reflect

[22] See ¶¶ 20 – 52, p.p. 4-11 of Joint Petition.

subsequent state tax adjustments to the state income tax rate for the post-2025 tax years through the Company's State Tax Adjustment Surcharge, currently Tariff Gas – Pa. P.U.C. No. 9, page 165, or future base rate proceedings.

4. As of the effective date of rates in this proceeding, Columbia will be eligible to include plant additions in the Distribution System Improvement Charge ("DSIC") at the later of (1) the end of the FPFTY or (2) once the total FPFTY account balances exceeds $4,815,151,833 as projected by Columbia at December 31, 2025 per Columbia Exhibit No. 108, Schedule 1. The foregoing provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing.

5. For purposes of calculating its DSIC, Columbia shall use the equity return rate for gas utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for gas utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa. C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa. C.S. § 1358(b)(1).

6. Columbia will be permitted to continue to use normalization accounting with respect to the benefits of the tax repairs deduction.

7. Columbia also will be permitted to continue to use normalization accounting with respect to the tax treatment of Section 263A mixed service costs.

8. Columbia will be permitted to recover the amortization of costs related to the following:

(i) Blackhawk Storage – Continuation of the previously-approved 24.5 year amortization of the total amount of $398,865 to be included on books and in rate base as a regulatory asset to reflect the total original cost that began on October 28, 2008.

(ii) Pension Prepayment – Continuation of the previously-approved ten-year amortization of $8,449,772.00 that began December 16, 2018.

(iii) COVID-19 Related Uncollectible Accounts Expense – Continuation of the previously-approved 4-year amortization of $2,832,363 that began December 17, 2022.

9. As established in the settlement of Columbia's base rate proceeding at R-2012-2321748, Columbia will be permitted to continue to defer the difference between the annual OPEB expense calculated pursuant to FASB Accounting Standards Codification ("ASC") 715, "Compensation – Retirement Benefits (SFAS No. 106) and the annual OPEB expense allowance in rates of $0. Only those amounts attributable to operation and maintenance would be deferred and recognized as a regulatory asset or liability. To the extent the cumulative balance recorded reflects a regulatory asset, such amount will be collected from customers in the next base rate proceeding over a period to be determined in that rate proceeding. To the extent the cumulative balance recorded reflects a regulatory liability, there will be no amortization of the (non-cash) negative expense and the cumulative balance will continue to be maintained.

10. Commencing with the effective date of rates, Columbia will deposit amounts in the OPEB trusts when the cumulative gross annual accruals calculated by its actuary pursuant to ASC 715 are greater than $0. If annual amounts deposited into OPEB trusts, pursuant to this Partial Settlement, exceed allowable income tax deduction limits, any income taxes paid will be recorded as negative deferred income taxes, to be added to rate base in future proceedings.

11. On or before April 1, 2025, Columbia will provide I&E, OCA and OSBA an update to Columbia Exhibit No. 108, Schedule 1, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ending December 31, 2024. On or before April 1, 2026, Columbia will update Exhibit No. 108, Schedule 1 filed in this proceeding for the twelve months ending December 31, 2025. In Columbia's next base rate proceeding, the Company will prepare a comparison of its actual revenue, expenses and rate base additions for the twelve months ended December 31, 2025. However, it is recognized by the Joint Petitioners that this is a black box settlement that is a compromise of Joint Petitioners' positions on various issues.

12. Tariff rates will go into effect on December 14, 2024.

13. For purposes of this settlement, Columbia's as-filed depreciation and amortization rates will be utilized. The parties to this proceeding continue to disagree about the appropriate depreciation method to be used by Columbia, and this settlement should not be construed as agreement to the methodology. All parties reserve their respective rights to address the depreciation methodology in any future base rate proceeding.

14. The Company agrees to file a cash working capital study in its first rate case filed after January 1, 2026. All parties reserve their respective rights to present any position on the treatment of the results of such study.

15. The proposed IT transformation ("WAM") plan and schedule, as well as the allocation of costs thereof to Columbia, are accepted.

C. Alternative Ratemaking

16. Columbia's Pilot Weather Normalization Adjustment ("WNA") mechanism will continue until a final order is entered in the Company's first rate case filed after December 14, 2024, which is the end of the suspension period for the general rate increase filing in this docket, pursuant to the terms of the Commission-approved settlement at Docket No. R-2021-3024296, and as further modified herein. For informational purposes, the Company shall continue to maintain and provide to the OCA, I&E and OSBA by October 1 of each year all reports and records supporting the operation of its WNA for the preceding year, including the Company's monthly computation of the WNA and all data underlying the Company's monthly WNA computation. All parties reserve their respective rights to propose or oppose a WNA in a future base rate

D. Revenue Allocation and Rate Design

17. Class revenue allocation will be approximately as shown in Appendix "B". Rate design for all classes shall be as shown in Appendix "C". Revenue allocation and rate design reflect a compromise and do not endorse any particular cost of service study.

18. The Residential customer charge will be set at $17.25 per month.

19. Columbia's proposed Municipal Levelization Charge is reserved for briefing.

E. Energy Efficiency and Conservation (EE&C)

63. The updates to Columbia's Three-Year Energy Efficiency Plan ("EE Plan"), as described in the direct testimony of Theodore M. Love, are accepted.

F. Universal Service Issues

38. Columbia will work with its Universal Service Advisory Committee ("USAC") to develop a plain language notice, on a pilot basis, of the right to enter Customer Assistance Program ("CAP") and the arrearage forgiveness benefits of CAP, to be provided to confirmed low-income customers with arrears of at least $300. The Company may recover the costs of the pilot notice through its Universal Services Rider. Columbia will report the results and costs of the pilot in its next Universal Service and Energy Conservation Plan ("USECP") filing.

39. Columbia will work with its USAC to develop a plain language notice, on a pilot basis, of the right to enroll in CAP when a security deposit is waived or refunded pursuant to 66 Pa. C.S. § 1404(a.1) and 52 Pa. Code § 56.32(e). The Company may recover the costs thereof through its Universal Services Rider. Columbia will report the results and costs of the pilot in its next USECP filing.

40. Columbia will work with its USAC to develop a plain language notice, on a pilot basis, to customers at or below 150% of the FPL when negotiating a payment arrangement. The Company may recover the costs thereof through its Universal Services Rider. Columbia will report the results and costs of the pilot in its next USECP filing.

41. Columbia will work with its USAC to develop a plain language notice, on a pilot basis, to customers who have had service disconnected for nonpayment, and who remain disconnected at the time of the Company's Cold Weather Survey ("CWS") undertaken for the PUC. The Company may recover the costs thereof through its Universal Services Rider. Columbia will report the results and costs of the pilot in its next USECP filing.

42. Columbia will present a pilot program involving the use of speech analytics no later than the Company's next USECP review or base rate proceeding, whichever comes first. As discussed in the Direct Testimony of OCA witness Colton, the Company will include the USAC in the development of the speech analytics pilot. The Company may recover the costs thereof through its Universal Services Rider.

43. The Company will amend its Tariff language regarding security deposits (Section 6.2(1)) to state: "A Customer or Applicant that provides self-certification or other income documentation that household income is at or below 150% of the federal poverty level shall not be asked to provide a cash deposit."

44. Columbia will report at each USAC meeting for at least three years, or until the final decision in its next base rate case, whichever is longer, the number of customers with waived or refunded security deposits.

45. The Company will review with its USAC call scripting and checklists for its Customer Service Representatives ("CSR") to assist in screening customers for eligibility and refer low-income customers to available assistance programs, including CAP, before placing customers on a payment arrangement.

46. The costs of implementing the above-actions related to confirmed and low-income customers will be recoverable through the Universal Service rider.

47. The Company will increase its Low Income Usage Reduction Program ("LIURP") annual budget by $800,000 beginning in 2026. All parties reserve their respective rights to propose an appropriate budget amount for LIURP in any future rate case proceeding or other appropriate proceeding.

G. Miscellaneous Issues

48. Columbia will implement a process to initiate an email to an existing customer, if an existing email is available, upon any request to start or transfer gas service of an active account into another name. The Company will work with PSU to implement comments on PSU's accounts.

49. Other issues raised by other parties are withdrawn, without prejudice.

H. Conditions of Partial Settlement

The Joint Petitioners have agreed to the conditions of settlement as set forth below.[23] These terms are stated verbatim and for ease of reference retain the same paragraph numbers as they appear in the Settlement.

53. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission modifies the Settlement, then any Joint Petitioner may elect to withdraw from this Settlement and may proceed with litigation and, in such event, this Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the

[23] Joint Petition ¶¶ 53-60, p.p. 11-13.

Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of any Order modifying the Settlement.

54. The Joint Petitioners acknowledge and agree that this Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated these proceedings resulting in the establishment of rates that are Commission-made, just and reasonable rates.

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

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

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

58. This Settlement is being presented only in the context of these proceedings in an effort to resolve the proceedings in a manner that is fair and reasonable. The Settlement is the product of compromise between and among the Joint Petitioners. This Settlement is presented without prejudice to any position that any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings except to the extent necessary to effectuate the terms and conditions of this Settlement. This Settlement does not preclude the Joint Petitioners from taking other positions in proceedings involving other public utilities under Section 1308 of the Public Utility Code, 66 Pa.C.S. § 1308, or any other proceeding.

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

60. If the ALJ adopts the Settlement without modification, the Joint Petitioners waive their individual rights to file exceptions with regard to the Settlement. Joint Petitioners retain their rights to file briefs, exceptions and replies to exceptions with respect to the issue that is reserved for litigation.

V. DISCUSSION

A. Applicable Legal Standards

The purpose of this investigation is to establish rates for Columbia's customers that are just and reasonable pursuant to Section 1301 of the Public Utility Code.[24] Section 1301(a) of the Code requires every rate made, demanded, or received by any public utility shall be just and reasonable, and in conformity with the regulations or orders of the Commission.[25] Pursuant to the just and reasonable standard, a utility may obtain a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers, as well as a reasonable rate of return on its investment.[26] There is no single way to arrive at just and reasonable rates. The Commission has broad discretion in determining whether rates are reasonable and to decide what factors it will consider in setting or evaluating a utility's rates.[27]

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[24] 66 Pa.C.S. § 1301.

[25] 66 Pa.C.S. § 1301(a).

[26] *City of Lancaster Sewer Fund v. Pa. Pub. Util. Comm'n*, 793 A.2d 978 (Pa. Cmwlth. 2002).

[27] *Pa. Publ. Util. Comm'n v. City of Bethlehem - Water Dep't,* Docket No. R-2020-3020256 (Opinion and Order entered Apr. 15, 2021) (*City of Bethlehem*) (citing *Popowsky v. Pa. Pub. Util. Comm'n*, 683 A.2d 958 (Pa. Cmwlth. 1996); *See also Popowsky v. Pa. Pub. Util. Comm'n*, 665 A.2d 808 (Pa. 1995) (The Commission possesses a great deal of flexibility in its ratemaking function).

The Commission encourages parties in contested on-the-record proceedings to settle cases.[28] 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.[29] To approve a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest.[30] The Commission has concluded that settlements eliminate the time, effort, and expense of litigating a matter to its ultimate conclusion, which may entail review of the Commission's decision by the appellate courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily entails. For a unanimous settlement, the Joint Petitioners share the burden of proving that the terms and conditions of the Settlement are supported by substantial evidence and are in the public interest.[31]

This Settlement is a "black box" settlement. This means that the Settlement does not specifically address each of the adjustments to rate base, revenue, expenses, or rate of return, nor does the Settlement resolve all of the disputes related to those items. The Commission has approved "black box" settlements in contentious base rate proceedings:

> We have historically permitted the use of "black box" settlements as a means of promoting settlement among the parties in contentious base rate proceedings. See, *Pa. PUC v. Wellsboro Electric Co.*, Docket No. R-2010-2172662 (Final Order entered January 13, 2011); *Pa. PUC v.*

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[28] *See* 52 Pa. Code § 5.231.

[29] *Pa. Pub. Util. Comm'n v. MXenergy Elec. Inc.*, Docket No. M-2012-2201861 (Opinion and Order entered Dec. 5, 2013).

[30] *Pa. Pub. Util. Comm'n v. UGI Utils., Inc. – Gas Div.*, Docket No. R-2015-2518438 (Opinion and Order entered Oct. 14, 2016); *Pa. Pub. Util. Comm'n v. CS Water & Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991).

[31] *City of Bethlehem,* at 13.

> *Citizens' Electric Co. of Lewisburg, PA*, Docket No. R-2010-2172665 (Final Order entered January 13, 2011). Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company's revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company's cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases.[32]

B. Statements of the Settling Parties in Support of the Settlement

As the Joint Petitioners investigated the proposal from Columbia or presented evidence to support their respective interests, the interests of the public and their statutory obligations, the Commission should approve the Settlement as to these uncontested issues, and as to the Partial Settlement in total, without modification.

The Partial Settlement was achieved only after a comprehensive investigation of the issues raised in this proceeding. In addition to a comprehensive filing and informal discovery, the Settling Parties responded to numerous formal discovery requests (many of which had multiple subparts). In support of their positions, the Joint Petitioners exchanged information or served testimony and accompanying exhibits, which were subsequently admitted into the record at the evidentiary hearing held on August 1, 2024. The Joint Petitioners participated in numerous settlement discussions and formal negotiations, which ultimately led to the Joint Petition.

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[32] *Pub. Util. Comm'n v. Peoples TWP, LLC*, Docket No. R-2013-2355886, p. 28 (Opinion and Order entered Dec. 19, 2013).

In addition, the Joint Petitioners, as well as their experts and counsel, have considerable experience in base rate proceedings. Their knowledge, experience, and ability to evaluate the strengths and weaknesses of their litigation positions provided a strong base upon which to build a consensus on the settled issues.

The Joint Petitioners have agreed to a settlement of all issues among them, exclusive of the Company's proposed Municipal Levelization Charge, in this general base rate proceeding. Among other provisions, the Settlement provides for increases in rates designed to produce $74.0 million in additional annual base rate revenue based upon the pro forma level of operations for the twelve months ending December 31, 2025.

For these reasons and the reasons set forth below, the Partial Settlement is just and reasonable and the Partial Settlement in this general base rate proceeding should be approved.

For the Commission's consideration the Joint Petitioners submitted separate Statements in Support of the Settlement Petition. In their Statements, I&E, OSBA, OCA, PSU, and Columbia conclude, after extensive discovery and discussion, that the Partial Settlement is in the interests of Columbia and its customers and is otherwise in the public interest.

Noting there is no objection to the Partial Settlement, the positions of the Settling Parties are summarized below.

C. Revenue Requirement

1. Columbia's Position

Reasonableness of Revenue Allowance

Columbia explains it has made, and continues to make, substantial capital investments in its system.[33] Columbia plans to continue its increased level of capital expenditures in the 2024 to 2028 timeframe, with a planned spending program ranging between $387 and $463 million budgeted annually over the 5-year period.[34]

Columbia submits, in addition to capital costs associated with Columbia's accelerated pipeline replacement effort, it is incurring increasing operating and maintenance (O&M) costs.[35]

The Settlement reflects the adoption of the 7.99% Pennsylvania Corporate Net Income Tax Rate (CNIT) rate expense item to be effective in the Fully Projected Future Test Year (FPFTY) and reflected in the determination of revenue allowance.[36]

Distribution System Improvement Charge

Columbia explains, for future DSIC purposes, it is necessary to establish relevant plant balances for the Company out of this proceeding. The Settlement provides Columbia will be eligible to include plant additions in the DSIC at the later of (1) the end

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[33] Columbia St. No. 1, pp. 5-7.

[34] Columbia St. No. 1, p. 14; Columbia St. No. 7, p. 3; SDR GAS-ROR-014 Att. A; Columbia St. in Support, p.p. 3-4.

[35] Columbia St. No. 1, pp. 39, 48, 51-53.

[36] Settlement ¶ 22.

of the FPFTY or (2) upon attaining total FPFTY plant in service of $4,815,151,833 as projected by Columbia at December 31, 2025 per Exhibit No. 108, Schedule 1.[37] Columbia notes this provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing. [38]

Tax Repair Allowance and Mixed Service Cost Normalization Treatment

Columbia explains, under the Settlement, Columbia will continue to use normalization accounting with respect to the benefits of the tax repairs deduction.[39]

Amortizations

Columbia explains the Settlement specifies the continued amortization of costs related to Blackhawk Storage, established in Columbia's 2008 rate case settlement at Docket No. R-2008-2011621.[40]

Columbia further explains the Final Order approving the settlement of the Company's 2018 Base Rate Filing, at Docket No. R-2018-2647577, permitted Columbia to amortize and recover the deferred prepaid pension O&M expense of $8.45 million over a ten-year period starting December 16, 2018. The Settlement in this case provides for the continuation of the previously approved ten-year amortization of $8.45 million that began December 16, 2018.[41]

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37 Settlement ¶ 23.

38 Columbia St. in Support, p.p. 6-7.

39 Settlement ¶ 25; Columbia St. in Support, p. 7.

40 Settlement ¶ 27(i); Columbia St. in Support, p. 8.

41 Settlement ¶ 27(ii); Columbia St. in Support, p. 8.

Columbia also explains the Final Order approving the settlement of the Company's 2022 Base Rate Filing, at Docket No. R-2022-3031211, permitted Columbia to amortize and recover deferred COVID-19 related uncollectible accounts expenses of $2,832,363 over a four-year period starting December 17, 2022.[42]

Other Post-Employment Benefits

Columbia explains the Settlement includes provisions concerning accounting for Columbia's ongoing contributions to trusts for Other Post-Employment Benefits (OPEBs) which were first established in the settlement of Columbia's 2012 base rate case at Docket No. R-2012-2321748.[43]

Reporting on Actual Capital Expenditures, Plant Additions, and Retirements

Columbia explains it has agreed that on or before April 1, 2025, it will provide I&E, OCA and OSBA with an update to Columbia Exhibit No. 108, Schedule 1, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ending December 31, 2024.[44] On or before April 1, 2026, Columbia will update Exhibit No. 108, Schedule 1 for the twelve months ending December 31, 2025.[45]

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[42] Columbia St. No. 4, p. 25; Columbia St. in Support, p. 8.

[43] Settlement ¶¶ 28-29, Columbia St. No. 4, p. 10; Columbia St. in Support, p. 9.

[44] Settlement ¶ 30.

[45] Settlement ¶ 30.

Depreciation

Columbia submits it presented its claim for depreciation expense and depreciation reserve based upon the same methods and procedures that have been in use for decades.[46] In the Settlement, Columbia's as-filed depreciation and amortization rates will be used. The parties continue to disagree regarding the proper depreciation method and reserve their rights to present positions in a future base rate case.[47]

IT Transformation

Columbia described NiSource Inc.'s plans to transform its Information Technology (IT) systems over the next five years, explaining the Work Asset Management (WAM) transformation program will be replacing outdated legacy IT systems with integrated, secure and reliable systems.[48] Columbia explained its share of WAM program costs for the FTY and FPFTY are $26.6 Million in capital costs and $5.0 Million in one-time O&M expenses.[49] The Settlement accepts the WAM plan and schedule, as well as the allocation of costs to Columbia.[50]

46 Columbia St. No. 5, p. 4.

47 Settlement ¶ 32.

48 Columbia St. No. 16, p. 3, 11.

49 Columbia Exhibit GS-1, Columbia St. No. 15, p. 9.

50 Settlement ¶ 34; Columbia St. in Support, p. 11.

Cash Working Capital Study

Columbia has historically not prepared a cash working capital (lead-lag) study, which was requested by OCA.[51] In Settlement, Columbia has agreed to submit a Cash Working Capital Study in its first-rate case filed after January 1, 2026.[52]

2. I&E's Position

Revenue Requirement

Revenue Allowance

I&E explains it's final litigation position in surrebuttal testimony proposed an annual increase in operating revenue of $70.75 million (or 9.00%).[53] I&E supports the negotiated level of annual operating revenue increase.[54]

Distribution System Improvement Charge

I&E supports the Settlement for purposes of calculating its DSIC as set forth in the Joint Petition.[55]

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51 OCA St. No. 2, pp. 17-18.

52 Settlement, ¶ 33.

53 I&E St. No. 1-SR, pp. 3-4; I&E St. in Support, pp. 7-8.

54 Columbia St. in Support, p.p. 11-12; I&E St. in Support, pp. 8-9.

55 I&E St. in Support, pp. 9-10.

Tax Repair Allowance

I&E explains it did not submit testimony or oppose the Company's recommendation.

Amortizations of Certain Costs

I&E explains the Company will be permitted to recover the amortization costs related to the continuation of the previously approved 24.5-year amortization of the total amount of $398,865 regarding Blackhawk Storage, to be included on books and in rate base as a regulatory asset to reflect the total original cost that began on October 28, 2008.[56]

I&E explains the Company will be permitted to recover the amortization costs related to the continuation of the previously approved ten-year amortization of $8,449,772.00 regarding pension payments that began December 16, 2018.[57]

Other Post-Employment Benefits

I&E elected not to submit testimony or oppose the Company's recommendation.

Reporting on Actual Capital Expenditures

I&E explains that in Columbia's next base rate proceeding, the Company will prepare a comparison of its actual revenue, expenses and rate base additions for the

56 I&E St. in Support, p. 11.

57 *Id.*

twelve months, ending December 31, 2025. I&E stresses that this is a black box settlement that is a compromise of Joint Petitioners' positions on various issues.[58]

Depreciation

I&E explains the Settlement provides that Columbia's as-filed depreciation and amortization rates will be utilized. I&E stresses the parties continue to disagree about the appropriate depreciation method to be used by Columbia, and this settlement should not be construed as agreement to the methodology.[59]

3. OSBA's Position

OSBA did not specifically address this issue in its Statement in Support of Settlement.

4. OCA's Position

Revenue Requirement

Annual Operating Revenue

OCA submits the Settlement revenue increase will provide sufficient funds to maintain Columbia's distribution system in an adequate, efficient, safe, and reasonable manner. According to OCA, a change in Pennsylvania law resulted in a schedule of decreases to the Pennsylvania Corporate Net Income Tax (CNIT) rate, starting with the 2023 tax year. The Settlement reflects the reduced 2025 tax year rate of 7.99%.

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58 I&E St. in Support, pp. 12-13.

59 I&E St. in Support, pp. 13-14.

Subsequent state tax rate adjustments for the post-2025 tax year will be addressed through the Company's State Tax Adjustment Surcharge tariff. OCA submits the clarity produced by this term will allow for future adjustments to the CNIT to flow through to customers automatically each year.[60]

OCA explains it challenged the Company's depreciation procedure in this case[61] and that the proper depreciation procedure/methodologies to use for Columbia is the subject of continued disagreement between the Company and the OCA.[62] OCA explained it determined to settle this issue based on the significant reduction in the proposed revenue increase agreed upon and as the parties have reserved their rights to address the proper depreciation method/procedure for Columbia in any future proceeding. [63]

DSIC and Rate Base Reporting

OCA concludes the terms in the Joint Petition[64] and the required reporting requirement will permit parties to compare the accuracy of Columbia's projections in this matter to its actual expenditures.[65]

Cash Working Capital Study

OCA witness Meyer testified that Columbia's selling of its accounts receivable would result in a negative cash working capital requirement and because

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60 OCA St. in Support, pp. 5-6.

61 OCA Sts. 4, 4SR, Direct and Surrebuttal Statements of OCA Witness Brian C. Andrews.

62 Settlement ¶ 32.

63 OCA St. in Support, pp. 7-8.

64 Settlement at ¶ 30.

65 OCA St. in Support, pp. 9-10.

Columbia has foregone a cash working capital study, Columbia's rate base is overstated.[66] Mr. Meyer proposed to offset the lack of a cash working capital study by not recognizing any materials and supplies balance as an adjustment to rate base. However, given that this Settlement presents a black box resolution of the revenue requirement, OCA submits Mr. Meyer's adjustment to materials and supplies is not specifically reflected in this Settlement.[67]

Accounting Treatment

OCA explains it agrees with Settlement paragraph 25 and 26 which have been carried forward from the 2022 partial settlement of the Company's 2022 base rate case at R-2022-3031211.[68]

Amortizations

OCA explains it agrees with Settlement Paragraph 27, the terms of which were carried forward from the 2022 partial settlement of the Company's 2022 base rate case at R-2022-3031211.[69]

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66 *Id*.

67 *Id*; OCA St. in Support, pp. 10-11.

68 OCA's Statement in Support for 2022 Partial Settlement, R-2022-3031211, *available at* https://www.puc.pa.gov/pcdocs/1757786.pdf (page 89 of the pdf) (last visited August 24, 2024); OCA St. in Support, p. 11.

69 OCA's Statement in Support for 2022 Partial Settlement, R-2022-3031211, *available at* https://www.puc.pa.gov/pcdocs/1757786.pdf (pages 89-90 of the pdf) (last visited August 24, 2024); OCA St. in Support, pp. 11-13.

Other Post-Employment Benefits

OCA explains it does not oppose the Company's position and settlement on this issue.

5. PSU's Position

Revenue Requirement

PSU submits that the reduction to the requested revenue requirement is in the public interest and a reasonable outcome based upon the issues presented in this proceeding and that the reduction serves to lower the overall increase allocated to the SDS/LGSS and LDS/LGSS rate classes, among others.[70]

6. Analysis

Reasonableness of Revenue Allowance

Paragraphs 21, 22, 31 and 32 of the Settlement provide:

> 21. Rates will be designed to produce an increase in annual operating revenues of $74.0 million over current base rates based upon the pro forma level of operations for the twelve months ended December 31, 2025.
>
> 22. The state income tax rate in this proceeding will be set at 7.99% and has been reflected in the settlement revenue requirement. The Company will reflect subsequent state tax adjustments to the state income tax rate for the post-2025 tax years through the Company's State Tax Adjustment Surcharge, currently Tariff Gas – Pa. P.U.C. No. 9, page 165, or future base rate proceedings.

[70] PSU St. in Support, pp. 4-7.

> 31. Tariff rates will go into effect on December 14, 2024.
>
> 32. For purposes of this settlement, Columbia's as-filed depreciation and amortization rates will be utilized. The parties to this proceeding continue to disagree about the appropriate depreciation method to be used by Columbia, and this settlement should not be construed as agreement to the methodology. All parties reserve their respective rights to address the depreciation methodology in any future base rate proceeding.[71]

The Settlement, as to revenue requirement, is a black box settlement, except for the issues specifically addressed in the Joint Petition. Black box settlements provide timely resolution of disputes without the significant expense of prolonged litigation.

Columbia shall be permitted to increase rates by amounts designed to produce increased operating revenues of $74.0 million over current base rates based upon the pro forma level of operations for the twelve months ended December 31, 2025. The $74.0 million increase in tariff rates will go into effect on December 14, 2024.[72] In addition, the state income tax rate will be set at 7.99% and has been reflected in the Settlement revenue requirement. Columbia will reflect subsequent state tax adjustments to the state income tax rate for the post-2025 tax years through the Company's State Tax Adjustment Surcharge, currently Tariff Gas – Pa. P.U.C. No. 9, or in future base rate proceedings.

Columbia originally filed for an increase in annual operating revenues of approximately $124.14 million, or approx., 15.8%, but the Settlement provides for an increase of $74.00 million[73] or approximately 9.4% percent.

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71 Settlement ¶¶ 21-22, 31-32.

72 Settlement ¶ 31.

73 I&E St. No. 1-SR, pp. 3-4.

The level of annual operating revenue increase agreed upon by the Joint Petitioners appears to constitute a full and fair compromise that provides Columbia, the Joint Petitioners, affected ratepayers, and the Commission with resolution of the overall revenue increase.

Distribution System Improvement Charge

Paragraphs 23, 24, and 30 provide as follows:

> 23. As of the effective date of rates in this proceeding, Columbia will be eligible to include plant additions in the Distribution System Improvement Charge ("DSIC") at the later of (1) the end of the FPFTY or (2) once the total FPFTY account balances exceed $4,815,151,833 as projected by Columbia at December 31, 2025 per Columbia Exhibit No. 108, Schedule 1. The foregoing provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in a FPFTY filing.
>
> 24. For purposes of calculating its DSIC, Columbia shall use the equity return rate for gas utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for gas utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa. C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa. C.S. § 1358(b)(1).
>
> 30. On or before April 1, 2025, Columbia will provide I&E, OCA and OSBA an update to Columbia Exhibit No. 108, Schedule 1, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ending December 31, 2024. On or before April 1, 2026, Columbia will update Exhibit No. 108, Schedule 1 filed in this proceeding for the twelve

> months ending December 31, 2025. In Columbia's next base rate proceeding, the Company will prepare a comparison of its actual revenue, expenses and rate base additions for the twelve months ended December 31, 2025. However, it is recognized by the Joint Petitioners that this is a black box settlement that is a compromise of Joint Petitioners' positions on various issues.[74]

The Joint Petitioners have agreed, as of the effective date of rates in this proceeding, Columbia will be eligible to include plant additions in the Distribution System Improvement Charge at the later of (1) the end of the FPFTY; or (2) once the total FPFTY account balance exceeds $4,815,151,833 as projected by Columbia at December 31, 2025, per Columbia Exhibit No. 108, Schedule 1. In addition, for purposes of calculating its DSIC, Columbia shall use the equity return rate for gas utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for gas utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa.C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa.C.S. § 1358(b)(1). This resolution by the Joint Petitioners appears to provide the Company, the Joint Petitioners and the Commission with regulatory certainty and resolution of these issues, which appears to be in the public interest.

It is reasonable to conclude that these provisions are consistent with terms in prior settlements and are necessary provisions in the context of the Settlement, in order to ensure that the DSIC is properly implemented in the future. Therefore, these provisions appear to be in the public interest.

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74 Settlement ¶¶ 23-24, 30.

Tax Repair Allowance

Paragraphs 25 and 26 provide as follows:

> 25. Columbia will be permitted to continue to use normalization accounting with respect to the benefits of the tax repairs deduction.
>
> 26. Columbia also will be permitted to continue to use normalization accounting with respect to the tax treatment of Section 263A mixed service costs.[75]

In 2008, Columbia sought and obtained permission from the Internal Revenue Service to change its definition of "unit of property" for tax purposes. Under the Settlement, Columbia will continue to use normalization accounting with respect to the benefits of the tax repairs deduction[76] and the tax treatment of Internal Revenue Code Section 263A mixed service costs (MSC).[77] The Settlement terms regarding the accounting treatment of the Company's tax repair deductions issue appear to constitute a full and fair compromise of this dispute.

Amortizations of Certain Costs

Based upon the Settlement, regarding Blackhawk Storage, Columbia will be permitted to recover the amortization costs related to the continuation of the previously approved 24.5-year amortization of the total amount of $398,865 to be included on books and in rate base as a regulatory asset to reflect the total original cost that began on October 28, 2008.

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75 Settlement ¶¶ 25-26.

76 Settlement ¶ 25.

77 Settlement ¶ 26.

The Final Order approving the settlement of the Company's 2018 Base Rate Filing, at Docket No. R-2018-2647577, permitted Columbia to amortize and recover the deferred prepaid pension O&M expense of $8.45 million over a ten-year period starting December 16, 2018.

The Settlement provides Columbia will be permitted to recover the amortization costs related to the continuation of the previously approved ten-year amortization of $8,449,772.00 that began December 16, 2018.

This Settlement term appears reasonable as it continues the agreement established in the Commission-approved settlement of the Company's 2018 Base Rate Filing.

The Final Order approving the settlement of the Company's 2022 Base Rate Filing, at Docket No. R-2022-3031211, also permitted Columbia to amortize and recover deferred COVID-19 related uncollectible accounts expenses of $2,832,363 over a four-year period starting December 17, 2022.[78]

Based upon the Settlement, Columbia will be permitted to recover the amortization costs related to the continuation of the previously approved 4-year amortization of $2,832,363 that began December 17, 2022. The amortizations set forth in the Joint Petition appears to constitute a full and fair compromise of the dispute.

Although there remains substantial disagreement among the Parties regarding various issues identified above, this Settlement term appears reasonable as it continues the agreement established in the Commission-approved settlement of the Company's 2022 Base Rate Filing.

[78] Columbia St. No. 4, p. 25.

Other Post-Employment Benefits

As established in the settlement of Columbia's base rate proceeding at R-2012-2321748, Columbia will be permitted to continue to defer the difference between the annual OPEB expense calculated pursuant to FASB Accounting Standards Codification (ASC) 715, Compensation – Retirement Benefits (SFAS No. 106) and the annual OPEB expense allowance in rates of $0. Only those amounts attributable to operation and maintenance would be deferred and recognized as a regulatory asset or liability as subject to the terms set forth in the Joint Petition. In addition, commencing with the effective date of rates, Columbia will deposit amounts in the OPEB trusts when the cumulative gross annual accruals calculated by its actuary pursuant to ASC 715 are greater than $0 as subject to the terms set forth in the Joint Petition.[79]

The resolution regarding the Company continuing to defer the difference between the annual OPEB expense calculated pursuant to FASB Accounting Standards Codification 715, Compensation – Retirement Benefits (SFAS No. 106) and the annual OPEB expense allowance in rates of $0 as set forth in the Joint Petition appears to constitute a fair resolution of this issue.

Reporting on Actual Capital Expenditures

The Settlement provides that, on or before April 1, 2025, Columbia will provide I&E, OCA and OSBA an update to Columbia Exhibit No. 108, Schedule 1, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ending December 31, 2024. On or before April 1, 2026, Columbia will update Exhibit No. 108, Schedule 1 filed in this proceeding for the twelve months

[79] Settlement ¶¶ 28-29.

ending December 31, 2025. In Columbia's next base rate proceeding, the Company will prepare a comparison of its actual revenue, expenses and rate base additions for the twelve months ending December 31, 2025.[80] The black box settlement is a compromise of the Joint Petitioners' positions on various issues and appears to be a fair resolution agreed upon by the Joint Petitioners. However, it is recognized by the Joint Petitioners that this is a black box settlement that is a compromise of Joint Petitioners' positions on various issues. This Settlement term appears to be in the public interest and should be approved because it will provide the statutory parties with ongoing information concerning Columbia's capital investments. As the parties explained, this information can be used as a metric to gauge Columbia's actual capital investment, plant additions, retirements and expenses in future base rate proceedings.

Depreciation

The Settlement provides that Columbia's as-filed depreciation and amortization rates will be utilized, although the parties continue to have significant disagreement about the appropriate depreciation method to be used by Columbia. The Joint Petitioners explain that this settlement should not be construed as agreement to the methodology and the Parties have reserved their respective rights to address the depreciation methodology in any future base rate proceeding. Under the circumstances, the Settlement appears to constitute a fair resolution of this issue.

Columbia presented its claim for depreciation expense and depreciation reserve based upon the same methods and procedures that have been in use for decades.[81] OCA proposed a substantial change in those procedures. OCA proposed that the Company convert from the Equal Life Group (ELG) procedure to the Average Life

80 Settlement, ¶ 30.

81 Columbia St. No. 5, p. 4.

Group (ALG) procedure.[82] OCA proposed a $43.88 million reduction to Columbia's depreciation expense with its proposal.

Columbia strongly opposed OCA's proposal.

Columbia, I&E and OCA presented testimony on Columbia's overall revenue requirement and related issues. Under the Settlement, with only a few select exceptions further explained herein, the settlement revenue requirement is a "black box" amount. Under a "black box" settlement, parties do not specifically identify revenues, expenses and return that are allowed or disallowed. Considering the entire Settlement as a whole, the revenue requirement appears to be reasonable and sufficient to provide Columbia with additional revenues necessary to provide safe and reliable service to customers, as well as balancing the need of the Company to have an opportunity to earn a reasonable rate of return with its customers' need for reasonable rates.

IT Transformation

Columbia described NiSource Inc.'s plans to transform its Information Technology (IT) systems over the next five years. This Work Asset Management (WAM) transformation program will be replacing outdated legacy IT systems with integrated, secure and reliable systems.[83] Many of these legacy systems are no longer supported and cannot support the technology needed for 21st Century operations and to meet customer expectations. A primary aspect of the WAM transformation will be the adoption of SAP software, which is a proven software platform used by many large

82 OCA St. 4, p. 13.

83 Columbia St. No. 16, p. 3.

utilities.[84] Columbia's share of WAM program costs for the FTY and FPFTY are $26.6 Million in capital costs and $5.0 Million in one-time O&M expenses.[85]

No party opposed the Company's WAM program or cost projections and the Settlement accepts the WAM plan and schedule, as well as the allocation of costs to Columbia.[86] It is reasonable to conclude that the new systems should enable Columbia to improve operations and provide better service for customers.

Cash Working Capital Study

Paragraph 33 of the Settlement provides:

> 32. The Company agrees to file a cash working capital study in its first rate case filed after January 1, 2026. All parties reserve their respective rights to present any position on the treatment of the results of such study.[87]

Columbia has not filed a cash working capital study.[88] OCA witness Meyer testified that Columbia Gas had chosen not to propose a working capital allowance for this rate case, which in many instances would have been recognized as a benefit for ratepayers.[89] OCA also explained that Columbia sells its account receivables to a third party and by doing so has significantly improved its cash receipts from the average date of service.[90] Witness Meyer testified that Columbia's selling of its accounts receivable

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84 Columbia St. No. 16, p. 11.

85 Columbia St. No. 15, p. 9.

86 Settlement ¶ 34.

87 Settlement ¶ 33.

88 OCA St. 2 at 18.

89 OCA St. 2 at 17.

90 *Id*.

would result in a negative cash working capital requirement and because Columbia has foregone a cash working capital study, Columbia's rate base is overstated and proposed to offset the lack of a cash working capital study by not recognizing any materials and supplies balance as an adjustment to rate base.[91] However, as the Settlement presents a black box resolution of the revenue requirement, Mr. Meyer's adjustment to materials and supplies is not specifically reflected in this Settlement. Regardless, OCA argued it is in the consumers interests that Columbia file a cash working capital study and anticipates that the results of such a study would show that customers on average pay for the cash expenses to operate Columbia before the Company has to pay its day to day cash expenses.[92] Accordingly, the Company has agreed to file a cash working capital study in its first rate case filed after January 1, 2026,[93] and all parties reserve their respective rights to present any position on the treatment of the results of such study.[94] It is reasonable to conclude that this Settlement provisions is in the public interest for the reasons stated above.

D. Alternative Ratemaking

1. Columbia's Position

Weather Normalization Adjustment

Columbia initially proposed to modify its pilot Weather Normalization Adjustment (WNA) to eliminate the existing 3% deadband.[95] Columbia explains, during

91 *Id*.

92 *Id*. at 18.

93 Settlement ¶ 33.

94 *Id*.

95 Columbia St. No. 6, p. 35.

the proceeding, the Company withdrew its proposed change.[96] Columbia explains it has agreed to revise the term of the WNA to provide that it will continue to operate until a final order is entered in Columbia's first rate case after December 14, 2024 and all parties reserve their rights to propose or oppose a WNA in that next base rate case.[97]

Revenue Normalization Adjustment

Columbia proposed a Revenue Normalization Adjustment (RNA) in this proceeding but agreed to withdraw the RNA proposal.[98]

2. I&E's Position

Weather Normalization Adjustment

I&E explains it opposed the proposal to remove the 3% deadband from Columbia's existing WNA Pilot.[99]

Revenue Normalization Adjustment

I&E explains the Joint Petitioners agreed that Columbia's RNA proposal is withdrawn without prejudice and Columbia may propose an RNA in future proceedings and all parties reserve their rights to oppose an RNA in the future.[100]

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96 Columbia St. No. 6-R, p. 32.

97 Settlement ¶ 35; Columbia St. in Support, p. 12.

98 OCA S. No. 5, pp. 17-28; I&E St. No. 3, pp. 9-13; OSBA St. No. 1, pp. 21-24; Settlement ¶ 36; Columbia St. in Support, p. 12.

99 I&E St. No. 2, pp. 6-9; I&E St. No. 2-SR, pp. 6-8; I&E St. in Support, pp. 14-15.

100 I&E St. in Support, pp. 15-16.

3. OSBA's Position

Weather Normalization Adjustment

OSBA explained the deadband causes ratepayer rates to be less volatile.[101] OSBA also explains it opposed the elimination of the WNA deadband.[102]

Revenue Normalization Adjustment

OSBA witness, Mark Ewen, testified that Columbia's proposed RNA would benefit the Company with a degree of increased financial certainty, allow the Company to adjust residential rates outside of rate cases, and provide no benefits to Columbia's residential customers.[103]

OSBA explained it fully supports the elimination of the RNA proposal.[104]

4. OCA's Position

Weather Normalization Adjustment

OCA explains, in the 2021 proceeding, the Commission approved the parties' agreement to continue the pilot WNA with a 3% deadband until a final order is entered in the Company's first rate case filed after May 31, 2026 is approved.[105]

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101 OSBA St. in Support, pp. 2-3.

102 *Id*.

103 OSBA St. No. 1, at 24.

104 OSBA St. in Support, pp. 2-3.

105 *Id.*

According to OCA, Columbia proposed to modify the WNA approved by the Commission in Columbia's 2021 base rate case by eliminating the 3% HDD deadband.[106]

Revenue Normalization Adjustment

OCA explains, under Columbia's RNA proposal, benchmark distribution revenue per residential customer (BDRB) levels would be established through a base rate proceeding.[107] OCA explains, once the Company's revenue requirement is set by the Commission through a base rate case proceeding, a benchmark revenue per residential customer would be established and the Company would collect or refund any amount in residential revenues which differed from the BDRB that were not due to differences between actual and normal weather.[108]

According to OCA, unlike the WNA, which limits lost revenue recovery to weather-related changes in sales, the Company's proposed RNA would have allowed the Company to periodically adjust its distribution service rates to recover any lost revenues that may arise regardless of the reason including any unaccounted for weather losses, losses due to end use energy efficiency, changes in the economy or energy commodity prices and other end-use ratepayer efficiency outcomes driven by their own actions or changing federal appliance standards.[109]

106 OCA St. 5 at 31.

107 OCA St. 5 at 17.

108 OCA St. 5 at 17.

109 OCA St. 1 at 21.

5. PSU's Position

PSU did not specifically address this issue in its Statement in Support of Settlement.

6. Analysis

Weather Normalization Adjustment

Paragraph 35 of the Settlement states:

> 35. Columbia's Pilot Weather Normalization Adjustment (WNA) mechanism will continue until a final order is entered in the Company's first rate case filed after December 14, 2024, which is the end of the suspension period for the general rate increase filing in this docket, pursuant to the terms of the Commission-approved settlement at Docket No. R-2021-3024296, and as further modified herein. For informational purposes, the Company shall continue to maintain and provide to the OCA, I&E and OSBA by October 1 of each year all reports and records supporting the operation of its WNA for the preceding year, including the Company's monthly computation of the WNA and all data underlying the Company's monthly WNA computation. All parties reserve their respective rights to propose or oppose a WNA in a future base rate proceeding.[110]

OSBA explained the deadband, which acts to neutralize any rate adjustments if the temperature is within plus-or-minus 3% of "normal," causes ratepayer rates to be less volatile.[111] OSBA submits if Columbia's proposal to eliminate the

110 Settlement ¶ 35.

111 OSBA St. in Support, pp. 2-3.

deadband was placed into effect, ratepayer rates would change on any day that was not deemed a "normal" temperature.

The Joint Petitioners agreed that Columbia's Pilot Weather Normalization Adjustment mechanism will continue until a final order is entered in the Company's first base rate case filed after December 14, 2024, which is the end of the suspension period for the general rate increase filing in this docket, pursuant to the terms of the Commission-approved settlement at Docket No. R-2021-3024296, as modified by the Settlement. All parties have reserved their respective rights to propose or oppose a WNA in a future base rate proceeding.

The Settlement also provides that, for informational purposes, the Company shall continue to maintain and provide to the OCA, I&E and OSBA by October 1 of each year all reports and records supporting the operation of its WNA for the preceding year, including the Company's monthly computation of the WNA and all data underlying the Company's monthly WNA computation,[112] which provides information on the WNA to the statutory advocates in advance of Columbia's next base rate case. The Settlement also provides "[a]ll parties reserve their respective rights to propose or oppose a WNA in a future base rate proceeding."[113]

The Settlement appears to clarify these issues and provides that the parties may challenge the WNA in Columbia's next base rate case. This Settlement provision appears reasonable and in the public interest.

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112 *Id.*

113 *Id.*

Revenue Normalization Adjustment

The Joint Petitioners have agreed that Columbia's RNA proposal is withdrawn without prejudice and Columbia is free to propose an RNA in future proceedings and all parties reserve their rights to oppose an RNA in the future.

The agreement to withdraw the proposed RNA without prejudice appears to provide a fair compromise that provides Columbia, the Joint Petitioners, ratepayers, and the Commission with regulatory certainty and is in the public interest.

E. Revenue Allocation and Rate Design

1. Columbia's Position

Revenue Allocation

Columbia submits that although the Joint Petitioners were not able to agree on a specific class "cost of service" in the Settlement, they were able to agree to a revenue allocation that is within the range of revenue allocations proposed by the Joint Petitioners in this proceeding, which revenue allocation, Columbia asserts, meets the "cost of service" standards adopted by the Courts and the Commission.[114]

Residential Rate Design

Columbia explains the Joint Petitioners have agreed that the residential customer charge will increase by $0.50, to $17.25/month.[115] Columbia notes its

[114] Columbia St. in Support, pp. 13-14.

[115] Settlement ¶ 38.

residential customer charge has not changed since the Company's 2012 base rate case[116] and the residential customer-based costs, exclusive of mains, is $28.71 per month.[117]

Small Commercial and Industrial Rate Design

Columbia proposed an increase to the customer charge for customers under Rate Schedules Small General Sales Service (SGSS), Small Commercial Distribution (SCD), and Small General Distribution Service (SGDS) using up to 6,440 therms annually from $29.92 per month to $36.55 per month, which is at the lower range of the customer cost of $31.68 (excluding mains) and $81.63 (including mains) for this rate class.[118] The Company proposed that the customer charge for customers under Rates Schedules SGSS, SCD, and SGDS using more than 6,440 therms annually be set at $69.63, which is proportional to the overall base revenue increase for the class.[119] The customer charges provided for in the Settlement are $33.00 per month for SGSS/SCD/SGDS customers using up to 6,440 therms and $63.00 per month for SGSS, SCD, and SGDS using more than 6,440 therms annually.[120]

Large Commercial and Industrial Rate Design

Columbia initially proposed a 22.14% increase in base rates for the Large Distribution Service (LDS)/Large General Sales Service (LGSS) class based on the amount of the Company's requested revenue increase.[121] Columbia explains, as a compromise, the Joint Petitioners agreed to allocate 6.39% of the settled revenue increase

116 Columbia St. No. 6-R, p. 12.

117 Columbia Ex. 111, Sch. 2, p. 25; Columbia St. in Support, p.p. 15-16.

118 Columbia Statement No. 6, p. 29.

119 Columbia Statement No. 6, p. 30.

120 Settlement Appendix C, pp. 6-7; Columbia St. in Support, p. 16.

121 Columbia Exhibit No. 103, Schedule 8, p. 1.

to the LDS/LGSS class, which represents approximately 1.43 times the system average increase.[122]

2. I&E's Position

Revenue Allocation and Rate Design

I&E explains it recommended the Company continue to utilize the peak and average cost of service study to establish rates.[123] I&E also recommended that the Company continue to classify flex rate customers as a separate class in future cost of service studies.[124] I&E explains its recommendations regarding rate design and customer charges for the various rate classes are set forth in I&E surrebuttal testimony.[125]

3. OSBA's Position

Revenue Allocation and Rate Design

OSBA explains the revenue allocation set forth in the Joint Petition reflects the work of OSBA and the other Parties and closely follows the revenue allocation proposed by witness Ewen in this case.[126]

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122 Settlement Appendix B; Columbia St. in Support, p. 17.

123 I&E St. No. 3, p. 17; I&E St. No. 3-SR, p. 17.

124 I&E St. in Support, pp. 16-18.

125 I&E St. No. 3-SR, pp. 19-24.

126 OSBA St. in Support, p. 3.

OSBA explained it opposed the levels of increases in the SGS1 and SGS2 customer charges and argued for lesser overall increases. OSBA submits the agreed upon increases to SGS1 and SGS2 customers is reasonable.[127]

4. OCA's Position

Revenue Allocation

OCA explains the Company included three cost of service studies (COSS): Peak & Average, Customer-Demand, and an Average COSS which averaged both the Peak & Average and Customer-Demand COSS.[128] Under the Peak & Average method, distribution mains investment is allocated 50 percent based on the design peak day demands and 50 percent based on annual, or average daily, demands of the customers in each rate class.[129] The Company used its Peak & Average allocated cost study as a guide for developing its revenue allocation and rates in this proceeding.[130]

OCA witness Mierzwa concluded that Columbia's reliance on the Peak & Average Study as the basis of its proposed revenue distribution is consistent with Commission precedent and with cost of service principles.[131]

OCA submits Columbia generally sought to allocate the revenue increase based on the cost of service indicated by the results of its Peak & Average Study.[132]

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127 OSBA St. in Support, p. 4.

128 OCA St. 5 at 6.

129 *Id.*

130 *Id.*

131 OCA St. in Support, p. 21; OCA St. in Support, pp. 20-22.

132 OCA St. 5 at 9; OCA St. in Support, pp. 22-23.

OCA witness Mierzwa testified that, although Columbia's proposed revenue allocation may be based on the results of the Company's Peak & Average Study, it does not reflect adequate movement toward cost-based rates for each customer class and does not adequately account for the significant subsidies provided to LDS/LGSS and Flex rate customers that receive service at less than cost of service rates.[133]

OCA witness Mierzwa testified that, while there is no hard and fast rule with respect to applying the concept of gradualism in developing a revenue distribution, typically an increase of 1.5 to 2.0 times the system average increase is considered consistent with the concept of gradualism.[134]

It is OCA's position that the settlement allocation is consistent with precedent and principles of cost causation, and within the range of expected outcomes if this case were fully litigated.[135] OCA explains under the Revenue Allocation provision, residential customers would be allocated $48.44 million of the total $74 million revenue requirement increase contained in the Settlement, or 65.46% of the increase,[136] which OCA considers reasonable and which continues to recognize the principles of gradualism.[137]

Rate Design

OCA submits Columbia's current residential customer charge is the highest in the Commonwealth, and if adopted, Columbia's proposed monthly Residential customer charge would have been significantly higher than that of any other natural gas

133 OCA St. 5 at 11; OCA St. in Support, p. 23.

134 OCA St. 5 at 12; OCA St. in Support, p. 23.

135 OCA St. in Support, pp. 23-34.

136 Settlement Appendix B.

137 OCA St. in Support p. 23; OCA St. in Support, p. 24

distribution company (NGDC) in the Commonwealth. OCA explains Columbia sought the Commission's permission to charge $26 per month, an increase of $9.25 per month (or by 55.22%) from every residential customer regardless of income level, ability to pay, or usage.[138]

5. PSU's Position

PSU explains revenue allocation and rate design were highly contested issues in this proceeding. PSU relied on the Customer-Demand COSS because, it argues, the Customer-Demand study better aligns with cost causation principles and does not over allocate mains investment to the Company's largest customers, unlike the P&A COSS.[139]

PSU submits, allocation of a rate increase must be based on cost of service,[140] which entails a collection of wide-ranging, including subjective, judgments[141] and the selection of study, implementation and execution thereof, and "judgment" for adjustments reflect the allocation that is most beneficial to the class of customers that each party represents.[142]

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138 Columbia St. 6 at 22; *See* OCA St. in Support pp. 25-26.

139 PSU St. 1 at 14:17-15:2; PSU St. in Support, pp. 4-7.

140 *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010, 1015 (Pa. Cmwlth. 2006).

141 *Pa. Pub. Util. Comm'n v. Pa. Power and Light Co.*, Docket Nos. R-842651, *et al.*, 1985 WL 1205434, at *84 (Opinion and Order entered Apr. 25, 1985).

142 The Company and I&E do not represent specific classes of ratepayers.

PSU concludes the Settlement presents a revenue allocation that is within the range of likely litigated outcomes in this proceeding, but also recognizes principles of gradualism.[143]

6. Analysis

Appendices B and C to the Settlement set forth the agreed to revenue allocation and rate design to the classes.[144]

Revenue Allocation

Paragraph 37 of the Settlement provides:

> 37. Class revenue allocation will be approximately as shown in Appendix "B". Rate design for all classes shall be as shown in Appendix "C". Revenue allocation and rate design reflect a compromise and do not endorse any particular cost of service study.[145]

Columbia presented three cost of service studies in this proceeding.[146] Other Parties presented alternative revenue allocation proposals. After extensive negotiations, the Parties supported their respective cost of service studies but were able to compromise in order to achieve a settlement of the revenue allocation issues. The resulting class increases, as compared to the Company's as-filed increases, are as follows:

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143 *Pa. Pub. Util. Comm'n, et al. v. Columbia Gas of Pa., Inc.*, Docket Nos. R-2020-3018835, *et al*., 2021 WL 757073, at *138 (Opinion and Order entered Feb. 19, 2021); *See* PSU St. in Support, pp. 4-7.

144 Settlement ¶ 37.

145 Settlement ¶ 37.

146 OSBA St. No. 1, at 11-12.

Customer Group	As Filed	Percentage of Proposed Increase[147]	As Settled	Percentage of Settled Increase
Residential (RS/RDS)	$86,302,967	69.52%	$48,442,452	65.46%
Small General Service 1 (SGSS1/SGDS1/SCD1)	$11,242,051	9.06%	$7,287,802	9.85%
Small General Service 2 (SGSS2/SGDS2/SCD2)	$12,393,385	9.98%	$8,399,452	11.35%
Small Distribution Service (SDS/LGSS)	$8,137,115	6.55%	$5,144,731	6.95%
Large Distribution Service (LDS/LGSS)	$6,061,742	4.88%	$4,725,171	6.39%
Mainline Distribution Service (MLDS/NSS)	$4	0%	$0	0%
Flex	$1,314	0%	$392[148]	0%
Total	$124,138,478	100%	$74,000,000	100%

OCA noted that Columbia originally proposed that 69.51% of the rate increase be assigned to residential customers. Under the Revenue Allocation provision, residential customers would be allocated $48.44 million of the total $74 million revenue requirement increase contained in the Settlement, or 65.46% of the increase.[149]

As a result of the disagreement over cost allocation studies and the black box nature of the Settlement, Columbia explained it is not possible to precisely calculate

147 Columbia Exhibit No. 103, Schedule 8, p. 4.

148 There are slight increases to revenues for Mainline and Flex customers due to increased customer charges.

149 Settlement at Appendix B.

the extent to which the Settlement moves rates closer to cost of service for all Joint Petitioners.

Under the circumstances, the Settlement appears reasonable and is the product of compromise by the settling parties. As explained by the Parties, the compromise ensures some certainty in the allocation for all parties involved without having to litigate the various cost of service proposals presented. The Settlement appears to yield a result that is reasonable and in the public interest

Rate Design

Paragraph 38 of the Settlement provides as follows: "The Residential customer charge will be set at $17.25 per month."[150]

It is noteworthy that Columbia proposed to increase the customer charges for residential customers from $16.75 to $26.00 per month.[151] The Joint Petitioners ultimately agreed that the residential customer charge will increase by $0.50, to $17.25/month.[152]

The Parties submitted extensive testimony and engaged in substantial negotiations regarding rate design. Under the circumstances, the Settlement provides for revenue allocation, rate design and rate class customer charges that are the result of compromise on the part of all Parties. The settled upon rate design and residential customer charges are very favorable to customers when compared to the rate design and customer charges originally proposed by the Company. The settled upon revenue allocation and rate design appears to represent a fair compromise that provides Columbia,

150 Settlement ¶ 38.

151 Columbia St. No. 6, p. 21.

152 Settlement ¶ 38.

the Joint Petitioners, ratepayers, and the Commission with regulatory certainty which is in the public interest.

F. Energy Efficiency and Conservation

1. Columbia's Position

As part of its 2022 Rate Case (Docket No. R-2022-3031211), Columbia filed for approval of a voluntary 3-year natural gas energy efficiency plan (EE Plan), approved under the Order adopted December 8, 2022, with a budget of $4 million for the years 2023 to 2025. The EE Plan projects savings to Columbia's residential customers of 1.3 million Dth of natural gas over the lifetime of the measures installed.[153] The EE Plan has two programs; the Residential Prescriptive (RP) Program, which provides incentives for high-efficiency natural gas fired equipment, and the Online Audit Kit (OAK) Program, which provides customers with customized online audit that then allows them to receive a space heating and/or water heating kit at no cost.[154]

Here, Columbia filed an updated EE Plan, explaining it experienced robust demand in its OAK Program and a slower than projected demand for the RP Program.[155]

According to Columbia, the updated EE Plan will allow the continuation of the OAK Program for the three years by shifting funds from the underspending of the RP Program in 2023. Columbia also proposed the addition of insulation with air sealing and natural gas fired heat pumps to its RP Program to provide its customers with a wider

153 Columbia St. No. 13, pp. 2-3.

154 Columbia St. No. 13, pp. 2-3; Columbia St. in Support, pp. 17-18.

155 Columbia St. No. 13, pp. 3-4; Columbia St. in Support, pp. 17-18.

range of measures and assist in meeting the Company's savings goals.[156] Columbia submits the updates to the EE Plan recognize that certain components of the original plan have greater interest than others, and shift funds accordingly to stay within the approved budget.[157]

2. I&E's Position

I&E explains it elected not to submit any testimony or oppose recommendations regarding these issues. Therefore, I&E supports the settled upon terms as a fair compromise of this issue.[158]

3. OSBA's Position

OSBA did not specifically address this issue in its Statement in Support of Settlement.

4. OCA's Position

OCA explains it does not oppose this provision of the Settlement and believes that it is in the public interest because the updates to Columbia's EE Plan do not affect the budget for the EE Plan, and the Plan provides benefits to Columbia's consumers.[159]

156 Settlement ¶ 40.

157 Columbia St. in Support, pp. 17-18.

158 I&E St. in Support, p. 18.

159 Columbia St. No. 13; OCA St. in Support, p. 26.

5. PSU's Position

PSU did not specifically address this issue in its Statement in Support of Settlement.

6. Analysis

Paragraph 40 of the Settlement provides:

> 40. The updates to Columbia's Three-Year Energy Efficiency Plan (EE Plan), as described in the direct testimony of Theodore M. Love, are accepted.[160]

In this proceeding, Columbia filed an updated EE Plan based upon the demand for the OAK Program and a slower than projected demand for the RP Program.[161]

According to Columbia, the Updated EE Plan will allow the continuation of the OAK Program for the three years by shifting funds from the underspending of the RP Program in 2023. Columbia Gas also proposed the addition of insulation with air sealing and natural gas fired heat pumps to its RP Program to provide its customers with a wider range of measures and assist in meeting the Company's savings goals.

No party opposed Columbia's updates to its EE Plan, and the Settlement terms are a fair resolution of this issue and in the public interest.

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160 Settlement ¶ 40.

161 Columbia St. No. 13, pp. 3-4.

G. Universal Service Issues

1. Columbia's Position

Columbia explains the Settlement includes several provisions related to Columbia's Universal Service Programs. Columbia submits the commitments to Universal Service contained in the Settlement reflect the Company's continued support for programs to assist low-income customers and are in the public interest.[162]

Plain Language Notices

Columbia explains OCA proposed that the Company adopt a variety of plain language notices that OCA believes will be of assistance to low-income customers, some of which are adopted in the Settlement on a pilot basis.[163] Columbia explains the cost of these pilots will be recovered through Columbia's Universal Service Rider, and Columbia will report on the results and costs of the pilots in its next USECP filing. [164]

Speech Analytics

OCA proposed that the Company adopt speech analytics software to assist with monitoring of call center phone calls involving or potentially involving low-income customers.[165] Columbia stated that it was willing to consider the ability and costs associated with speech analytics in a future proceeding.[166] Columbia explains the Settlement provides that the Company will present a pilot program, at the earlier of its

162 Columbia St. in Support, pp. 18-19.

163 Settlement ¶¶ 41-44.

164 Columbia St. in Support, p. 19.

165 OCA St. 6, p. 65.

166 Columbia St. No. 18-R, p. 1.

next USECP review or base rate proceeding, involving the use of speech analytics. The costs will be recovered through Columbia's Universal Service Rider.[167]

Security Deposits

Columbia explains that OCA proposed several changes to Columbia's tariff and reporting requirements regarding security deposits[168] some of which were adopted.[169]

Call Scripting

Columbia explains OCA expressed concerns about the number of customers receiving CAP and other low-income customer benefits.[170] In response, the Settlement provides that Columbia will review with its USAC the call scripting and checklists for its Customer Service Representatives (CSR) to assist in screening customers for eligibility and refer low-income customers to available assistance programs, including CAP, before placing them on a payment arrangement.[171]

Low Income Usage Reduction Program

Columbia explains PA Task Force proposed that Columbia's Low Income Usage Reduction Program (LIURP) budget be increased by the same percentage as the increase applied to residential customer rates.[172] Columbia responded to this proposal by

167 Settlement ¶ 45; Columbia St. in Support, p. 19.

168 OCA St. 6, p. 58.

169 Settlement ¶¶ 46-47; Columbia St. in Support, p. 20.

170 OCA St. 6.

171 Settlement ¶ 48; Columbia St. in Support, p. 20.

172 PA Task Force St. No. 1, p. 6.

pointing out that the Company continues to carry over LIURP funds from prior years.[173] In settlement, the parties have agreed that Columbia will increase its annual LIURP budget by $800,000 beginning in 2026.[174]

2. I&E's Position

I&E submitted limited testimony on the low-income issues discussed in the Joint Petition and explained it shares some of the concerns raised by the parties and ultimately the Company reached amicable agreements on these issues with the parties that raised them.

3. OSBA's Position

OSBA did not specifically address this issue in its Statement in Support of Settlement.

4. OCA's Position

Plain Language Notices

OCA witness Mr. Colton identified concerns about the Company's process for identifying low-income customers and enrolling low-income customers in CAP [175] and recommended that when Confirmed Low-Income customers accrue an unpaid balance of $300, Columbia should provide a stand-alone written plain language notice

173 Columbia St. No. 18-R, p. 15.

174 Settlement ¶ 50; Columbia St. in Support, p.p. 21-22.

175 Settlement ¶ 41.

informing those customers of their right to enroll in the Company's CAP (along with an explanation of the advantages of CAP's arrearage forgiveness provisions).[176]

OCA further explains witness Colton recommended that where Columbia would otherwise request a cash security deposit from a Confirmed Low-Income customer, the Company should, as an alternative to that deposit demand, provide a stand-alone written plain language notice informing these customers of their right to enroll in the Company's CAP.[177] OCA witness Colton also recommended that Columbia provide a report to its Universal Service Advisory Committee every six months for three years, or until the final decision in its next base rate case, whichever is longer, of the number of low-income customers who have had deposits waived, as well as the number of low-income customers who have had deposits refunded.[178]

OCA witness Colton also recommended that before Columbia enters into a payment arrangement with a customer which the Company either: (1) knows to be a Confirmed Low-Income customer; or (2) has generated information through the payment arrangement process documenting that the customer is in the Tier 1 income range (at or below 150% FPL), it should be required to provide the customer a stand-alone plain language notice to that customer of the customer's right to enter into CAP and an explanation of the advantages of CAP's arrearage forgiveness benefits.[179]

OCA witness Colton also testified that customers who have had service disconnected for nonpayment, and who remain disconnected at the time of the Company's cold weather survey undertaken for the Commission, should be provided a

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176 OCA St. 6 at 58; OCA St. in Support, p. 27.

177 OCA St. 6 at 47.

178 OCA St. 6 at 67-68; OCA St. in Support, pp. 27-28.

179 OCA St. 6 at 53.

written, stand-alone, plain language notice of their right to enroll in the Company's CAP (along with an explanation of the advantages of CAP's arrearage forgiveness provisions).[180]

Speech Analytics

OCA witness Colton recommended that the Company use new technology to help the customer service representatives to identify low-income customers who might be eligible for CAP.[181] Mr. Colton discussed the potential use of speech and linguistics analysis to help Columbia determine whether calls to the Company's call center are "handled properly" for purposes of identifying Confirmed Low-Income customers and customers who would benefit from enrollment in the Company's universal service programs.[182] According to OCA, the Settlement provision is designed to explore the benefits of leveraging technology to help the Company to improve its identification of low-income customers and will address witness Colton's concern by providing for Columbia's development of a "pilot program involving the use of speech analytics no later than the Company's next USECP review or base rate proceeding, whichever comes first.[183]

Security Deposits

OCA witness Colton recommended that Columbia be directed to modify its tariff to properly reflect the regulatory requirement that a customer is to be exempt from cash security deposits "when *the customer provides income documents or other*

180 OCA St. 6 at 53.

181 OCA St. 6 at 61.

182 OCA St. 6 at 64.

183 OCA St. in Support, pp. 29-31.

information that he or she is eligible for state benefits based upon household income eligibility requirements that are consistent with those of the public utility's customer assistance program."[184] He also recommended that Columbia refund any cash security deposit to a customer who is currently categorized as "Confirmed Low-Income," which by Commission definition means a customer who the Company has received information sufficient to give rise to a reasonable belief that the customer is low-income.[185] Mr. Colton recommended that Columbia include in its tariff the April 2024 order of the Commission, directing that Columbia may apply an existing security deposit to the account balance only with the customer's informed consent.[186] Finally, Mr. Colton recommended that Columbia provide a report to its Universal Service Advisory Committee every six months for three years, or until the final decision in its next base rate case, whichever is longer, of the number of low-income customers who have had deposits waived, as well as the number of low-income customers who have had deposits refunded.[187]

Call Scripting

OCA believes paragraphs 48 and 49 of the Settlement regarding call scripting are a reasonable compromise of Mr. Colton's recommendations.[188]

184 OCA St. 6 at 66-67 (citing 52 Pa. Code ¶ 56.41(4) (emphasis added)).

185 OCA St. 6 at 67.

186 OCA St. 6 at 67.

187 OCA St. 6 at 67-68.

188 OCA St. in Support, p. 32.

Low Income Usage Reduction Program (LIURP) Budget

The Pennsylvania Weatherization Task Force proposed an increase to the LIURP budget to be, at a minimum, commensurate with the increase in rates for the residential class that results from this proceeding.[189] OCA supported the proposed Settlement provision.[190]

5. PSU's Position

PSU did not specifically address this issue in its Statement in Support of Settlement.

6. Analysis

The Joint Petitioners have agreed that Columbia will implement the following low-income initiatives as more fully described in the Statement in Support of Settlement filed by OCA and the Joint Petition as summarized below.

Plain Language Notices

Columbia has agreed to work with its Universal Service Advisory Committee (USAC) to develop plain language notices, on a pilot basis, regarding: (1) the right to enter Customer Assistance Program (CAP) and the arrearages forgiveness benefits of CAP; (2) the right to enter CAP when a security deposit is waived; (3) payment arrangement negotiations with customers at or below 150% of the FPL; and, (4) customers who have had service disconnected for non-payment and who remain

189 PWPTF St. No. 1 at 6-7.

190 OCA St. in Support, p. 33.

disconnected at the time of the Company's Cold Weather Survey.[191]

Speech Analytics

Columbia will present a pilot program involving the use of speech analytics no later than the Company's next USECP review or base rate proceeding, whichever comes first. And the Company may recover the costs thereof through its Universal Service Rider.[192]

Security Deposits.

The Company will amend its Tariff language regarding security deposits (Section 6.2(1)) to state: "A Customer or Applicant that provides self-certification or other income documentation that household income is at or below 150% of the federal poverty level shall not be asked to provide a cash deposit." And Columbia will report at each USAC meeting for at least three years, or until the final decision in its next base rate case, whichever is longer, the number of customers with waived or refunded security deposits.[193]

Call Scripting

The Company will review with its USAC call scripting and checklists for its Customer Service Representatives (CSR) to assist in screening customers for eligibility and refer low-income customers to available assistance programs, including CAP, before placing customers on a payment arrangement. Again, the costs of

191 Joint Petition ¶¶ 41-44.

192 Joint Petition ¶ 45.

193 Settlement ¶¶ 46-47.

implementing the above actions related to confirmed and low-income customers will be recoverable through the Universal Service rider.[194]

LIURP

The Company will increase its Low-Income Usage Reduction Program (LIURP) annual budget by $800,000 beginning in 2026. All parties reserve their respective rights to propose an appropriate budget amount for LIURP in any future rate case proceeding or other appropriate proceeding.

The Parties presented extensive testimony on the low-income issues addressed above and as set forth in the Joint Petition. The agreements reached by the Joint Petitioners appear to be a just resolution of these issues and constitute a fair compromise which is in the public interest.[195]

H. Miscellaneous Issues

1. Columbia's Position

Columbia explains testimony was submitted by PSU regarding an incident where a person made a seemingly valid request to transfer gas service on a PSU account to another name.[196] According to Columbia, PSU did not contact Columbia when it did not receive bills, nor did it contact Columbia when a final bill notice was provided to the service address. When the named person on the account failed to pay bills, service was

194 Settlement ¶¶ 48-49.

195 Settlement ¶ 50.

196 PSU St. No. 1, p. 22.

terminated. Columbia asserts, as soon as PSU notified Columbia of the situation, service was reinstated.[197]

According to Columbia, it is standard practice to disconnect an existing customer when a new applicant seeks to connect gas service in their name and the new applicant provides all of the required information to enable the Company to run a credit check on them and establish service in their name. However, Columbia has agreed to implement a process to initiate an email to an existing customer, if an email is available, upon any request to start or transfer gas service of an active account into another name.[198]

2. I&E's Position

I&E explains it does not oppose the agreed upon Settlement terms set forth in the Joint Petition.[199]

3. OSBA's Position

OSBA did not specifically address this issue in its Statement in Support of Settlement.

4. OCA's Position

OCA explains it does not oppose Paragraph 51 of the Settlement reflecting an agreement by the Company to address a concern of PSU.[200]

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197 Columbia St. No. 17-R, p. 6-7; Columbia St. in Support, p. 21.

198 Settlement ¶ 51; Columbia St. in Support, p. 21.

199 I&E St. in Support, pp. 20-21.

200 OCA St. in Support, p. 33.

5. PSU's Position

PSU explains Columbia has agreed to implement a process for alerting customers via email upon any request to start or transfer gas service of an active account into another name.[201] Columbia Gas has also committed to working with PSU to implement comments on PSU's accounts.[202] PSU submits that Columbia Gas's proposal is a step in the right direction to prevent unauthorized transfer of active accounts to a third party. This proposal will provide additional notice to customers to enable customers to identify when unauthorized requests for service are initiated on their account. Moreover, PSU submits the account comments commitment provides additional notice and instruction to customer service representatives that may receive a fraudulent request to transfer service related to a PSU account.[203]

Analysis

Based upon the issues raised by the parties and primarily by PSU, the Joint Petitioners have agreed that Columbia will implement a process to initiate an email to an existing customer, if an existing email is available, upon any request to start or transfer gas service of an active account into another name. In addition, Columbia has agreed to work with PSU to implement comments on PSU's accounts.

The Settlement of these issues raised by PSU appear to be a fair resolution of the issues and is in the public interest.

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201 Settlement ¶ 51.

202 *Id.*

203 PSU St. in Support, p. 8.

DISCUSSION OF THE SETTLEMENT

Settlement Issues

The Joint Petitioners support the Settlement as a whole. Not every Joint Petitioner addressed every element of the Settlement in their Statements in Support, but instead focused on the elements that were important to their decision to support the Settlement or pertained to areas where they submitted testimony.

The Joint Petitioners addressed their agreement with respect to the following issues: (1) Revenue Requirement; (2) Alternative Ratemaking; and (3) Revenue Allocation and Rate Design; (4) Energy Efficiency and Conservation; (5) Universal Service Issues; (6) and Miscellaneous Issues. The Joint Petitioners have specifically agreed to the terms, as provided in the Settlement, which are adopted without modification. The issue of whether a Municipal Levelization Charge should be adopted, was reserved for litigation

Bill Impacts

In the Settlement, the Joint Petitioners have proposed that rates be designed to produce an additional $74.0 million in annual base rate operating revenues instead of the Company's filed increase request of approximately $124.1 million. Upon approval of the Settlement, Columbia will receive an increase in existing base rate operating revenues of approximately 9.41% instead of the 15.79% increase proposed in Columbia's filing. A typical residential sales customer using 70 therms of gas per month will see an increase in their monthly bill from $118.16 to $128.06, or by 9.06%, instead of the monthly increase from $118.16 to $136.92 per month, or 15.88%, that was originally proposed in the filing. A typical small commercial sales customer using 150 therms of gas per month will see an increase in their monthly bill from $196.43 to $215.72, or by 9.82%, instead of the

monthly increase from $196.43 to $226.24 per month, or 15.18%, that was originally proposed in the filing.[204]

CONTESTED ISSUE

In accordance with the Commission's Rules of Practice and Procedures, 52 Pa. Code § 5.231, the parties engaged in settlement discussions. As a result of those conferences, the Joint Petitioners were able to reach a settlement in principle of all issues, except whether a Municipal Levelization Charge, proposed by Columbia, should be adopted.

Question Presented

Whether the Company's proposed Municipal Levelization Charge should be adopted.

Legal Standards

Under Section 332(a) of the Public Utility Code,[205] "the proponent of a rule or order has the burden of proof." It is well-established that "[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."[206] The preponderance of evidence standard requires proof by a greater weight of the

[204] Columbia St. in Support, p. 22.

[205] 66 Pa.C.S. § 332(a).

[206] *Samuel J. Lansberry, Inc. v. Pa. Pub. Util. Comm'n*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

evidence.[207] This standard is satisfied by presenting evidence more convincing, by even the smallest amount, than that presented by another party.[208]

If the party seeking a rule or order from the Commission sets forth a *prima facie* case, then the burden shifts to the opponent.[209] Establishing a *prima facie* case requires either evidence sufficient to make a finding of fact permissible or evidence to create a presumption against an opponent which, if not met, results in an obligatory decision for the proponent. Once a *prima facie* case has been established, if contrary evidence is not presented, there is no requirement that the party seeking a rule or order from the Commission must produce additional evidence to sustain its burden of proof.[210]

A public utility has the burden of proof to show that a proposed rate is "just and reasonable."[211] Thus, as the proponent of the proposed Municipal Levelization Charge, the Company has the burden of proof to demonstrate that the proposed charge is just and reasonable.

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[207] *Commonwealth v. Williams*, 732 A.2d 1167 (Pa. 1999).

[208] *Brown v. Commonwealth*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008).

[209] *MacDonald v. Pa. R.R. Co.*, 36 A.2d 492 (Pa. 1944).

[210] *See Replogle v. Pa. Elec. Co.*, 54 Pa.P.U.C. 528 (Order entered Oct. 9, 1980); *see also Dist. of Columbia's Appeal*, 21 A.2d 883 (Pa. 1941); *Application of Pennsylvania-American Water Co. for Approval of the Right To Offer, Render, Furnish or Supply Water Serv. to the Pub. in Additional Portions Of Mahoning Twp., Lawrence Cnty., Pa.*, Docket No. A-212285F0148 (Opinion and Order entered Oct. 29, 2008).

[211] 66 Pa.C.S. § 315(a); *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067, 1070 (Pa. Cmwlth. 1981).

Proposed Municipal Levelization Charge

Columbia's Position

Columbia has proposed to adopt a revenue neutral MLC, on an experimental basis, with a stated purpose to foster fairness and to discourage municipalities from adopting costly road permitting and restoration requirements that increase the cost of Columbia's pipeline replacements program.[212] Columbia explains, the implementation of the MLC, provides notice to municipalities that enacting excessive permitting and restoration requirements may result in their residents, who are customers of Columbia, being charged a higher rate for natural gas service. Columbia proposes to charge customers located in the City of Pittsburgh and the Borough of Perryopolis a monthly charge of $0.70 per bill, and to provide a credit of $7.44 per bill to customers located in Roscoe Borough and New Sewickley Township.[213]

Columbia currently recovers its paving and restoration costs through base rates from all customers. Columbia submits, over the past fifteen years, the cost per foot to replace pipe has increased from $81.25 to $289.[214] Columbia asserts that some of this increase results from costs for restoration and permitting fees mandated by local ordinances which exceed the restoration requirements and permitting fees that PennDOT enforces for state highways.[215]

Although Columbia does not provide detailed specificity regarding whether the following projects were completed or the restoration related costs, the time period of the project or other relevant factors, Columbia cites several examples of excessive

212 Columbia St. No. 1, p. 22; Columbia M.B. 5.

213 Columbia St. No. 9, p. 19; Columbia M.B. 5-6.

214 Columbia St. No. 1, p. 18; Columbia M.B. 6.

215 Columbia St. No. 1, pp. 18-19; Columbia M.B. 6.

restoration requirements, and the cost consequences of those requirements: For two proposed pipeline projects in one Pennsylvania township, Columbia calculated the permitting and restoration costs demanded by the township compared to what would be required under PennDOT requirements. Under PennDOT requirements, the permit fees for these projects would be $2,510, but under the township's ordinance, permitting and engineering fees would be $143,740, or 57 times the cost of PennDOT's requirements. PennDOT requires disturbed roadways to be restored by milling and overlaying the traffic lane in which an opening or openings were made by using paving at 1.5 inches thick, and if four or more openings were made that cross the street within 100 linear feet, the utility must overlay the entire disturbed area, which is commonly called "curb to curb" restoration. Some municipal ordinances require curb to curb paving and 3.5 inches or even 4 inches overlay paving thickness in virtually all circumstances. A third example is where a borough requires curb to curb paving plus paving 25 feet on both sides of a street cut. According to Columbia, under the PennDOT requirements the project would cost $260,000 in paving and restoration costs. In comparison, a borough's demand resulted in customers being responsible for paying $470,000 for permitting and restoration - nearly double the PennDOT cost.[216]

Columbia submits such increased costs reduce the miles of pipe that can be replaced in a single year with the funds available, thereby extending the replacement time for priority pipe and shifts costs that rightfully should be borne by taxpayers in certain municipalities to ratepayers residing in other municipalities in Columbia's service territory. Columbia further asserts that the current circumstances may encourage even more municipalities to employ, what Columbia characterizes as "similar strategies" to have a greater portion of their paving costs and budgetary shortfalls shifted to Columbia and, ultimately, Columbia's customers.[217]

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[216] Columbia St. No. 1, pp. 19-20; Columbia M.B. at 6-7.

[217] Columbia submits state utility commission action on restoration standards is not unprecedented. As Columbia witness Kempic testified, in 1999 the Massachusetts

In an effort to mitigate municipal fees and restoration costs, Columbia asserts, when fees or requirements appear to be unreasonable,[218] it will seek to negotiate more reasonable terms with the municipality, but negotiation is not always possible, particularly where a main repair or replacement must be undertaken without delay due to a gas leak.[219]

Columbia asserts, where negotiations are unsuccessful, and where projects need not proceed immediately, Columbia may proceed with litigation to challenge what it believes to be illegal or unreasonable fees or requirements.[220] In October 2022, Columbia filed a petition which is currently pending in the Commonwealth Court of Pennsylvania challenging certain ordinances of Menallen Township, Fayette County, that impose permitting and right-of-way fees that Columbia asserts are illegally excessive.[221]

Department of Telecommunications and Energy (now the Department of Public Utilities) issued statewide utility restoration standards, relying on its general supervisory power over utilities with reference to safety and convenience of the public, finding that a single statewide street restoration standard was in the public interest and conducive to the fundamental State policy of ensuring uniform and efficient utility service to the public. Columbia St. No. 1, pp. 23-24; Columbia M.B. at 8-9.

[218] For example, Redstone Township in Fayette County has a permit fee formula of $150 application fee, plus $75 per hour with 4-hour minimum engineering inspection and supervision fee, as well as a $36.70 square foot permit fee. Columbia has engaged the Township's council regarding pipeline replacement projects in 2025 and 2026 that would replace approximately 9,600 linear feet of pipe. Those projects have estimated permit fees of more than $700,000. Columbia is working with the Township to arrive at a reasonable permit fee formula for the projects. *See* Columbia St. No. 7, p. 25.

[219] Columbia St. No. 1, pp. 20-21; Columbia M.B. 8-9.

[220] As interpreted by Pennsylvania courts, local municipalities may only charge fees commensurate with costs incurred and may not use fees to enhance general revenues. *See PPL Elec. Utils. Corp. v. City of Lancaster*, 214 A.3d 639 (Pa. 2019) (*City of Lancaster*).

[221] Columbia St. No. 7, pp. 21, 24; Columbia M.B. 8-9.

Columbia further submits, in September 2023, Pennsylvania House Bill 1655 was introduced, which would prohibit municipalities from implementing permitting fees or restoration requirements that exceed PennDOT requirements.[222]

Columbia explains it determined the costs above PennDOT standards for the City of Pittsburgh and the Borough of Perryopolis. To determine the incremental costs above PennDOT standards for the City of Pittsburgh, Columbia compared the average cost of the 3.5- and 4.0-inch mill and overlay (M&O) requirement of the City of Pittsburgh to the average cost of 1.5-inch M&O, which is the PennDOT standard.[223] The difference was applied to the number of yards paved for the period 2021-2023, resulting in excess costs for paving only, determined by Columbia, of $1.3 million.[224]

A similar calculation was prepared for the Borough of Perryopolis, except that the Borough requires a 2.0-inch M&O. Columbia concludes this resulted in additional costs of approximately $54,000.[225] Because these are capital costs, Columbia calculated the resulting annual revenue requirement for these municipalities above PennDOT standards and divided by the total number of annual bills of customers located in those two municipalities to determine the proposed charge, which is $0.70 per bill.[226]

Columbia further explains, in order to maintain revenue neutrality, the excess revenue requirement amount produced from the MLC to customers in the City of Pittsburgh and the Borough of Perryopolis was divided by the number of customers in

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222 Columbia St. No. 1, p. 24; Columbia St. No. 7, p. 17; Columbia M.B. at 11.

223 Columbia St. No. 9, p. 18.

224 This does not take into account other excessive restoration requirements or permit fees.

225 Columbia St. No. 9, p. 19.

226 Columbia St. No. 9, p. 19.

Roscoe Borough and New Sewickley Township, which allow restoration back to original condition. The result calculated by Columbia is a monthly credit of $7.44 per bill.[227]

Columbia submits cost of service is the "polestar" of utility rates[228] and that the Commission has repeatedly recognized that cost of service is a guide to designing rates and is only one factor, albeit an important one, to be considered in the rate setting process.[229] Columbia further argues Section 1304 of the Public Utility Code, cited by OCA and CAUSE-PA, does not prohibit rate differences, either among localities or customer classes. Only "unreasonable" rate differences are prohibited, the determination of which is primarily an administrative question for the Commission.[230]

Citing the Commonwealth Court decision in *Pittsburgh v. Pennsylvania Public Utility Commission*,[231] where the City of Pittsburgh opposed a rate design that increased rates to customers within the City above what the City believed were justified on a cost basis, Columbia also argues the $0.70 per bill charge under the MLC cannot be considered unreasonably high and discriminatory. There, the Commonwealth Court explained, to prove unreasonable discrimination, the city must show that certain customers "are paying an unreasonably high rate thereby giving an advantage to other

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227 Columbia St. No. 9, p. 19; Columbia M.B. at 12-13.

228 . See *Lloyd v. Pa. Pub. Util. Comm'n.*, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006) (*Lloyd*); Columbia R.B. at 2.

229 *See, e.g., Pa. Pub. Util. Comm'n v. Aqua Pa., Inc.*, Docket Nos. R-00072711 (Opinion and Order entered July 31, 2008); *Pa. Pub. Util. Comm'n v. West Penn Power Co.*, 73 Pa.P.U.C. 454 (1990); *Pa. Pub. Util. Comm'n v. Pa. Power & Light Co.*, 55 P.U.R. 4th 185, 249 (Pa.P.U.C. 1983); Columbia R.B. at 2-3..

230 *See, e.g., Deitch v. Pa. Pub. Util. Comm'n*, 203 A.2d 515, 519 (Pa. Super. 1964); *Riverton Consol. Water Co. v. Pa. Pub. Util. Comm'n,* 140 A. 2d 114 (Pa. Super. 1958); *Harrisburg Steel Corp. v. Pa. Pub Util. Comm'n*, 109 A.2d 719 (Pa. Super. 1954); Columbia R.B. at 2-3.

231 *Pittsburgh v. Pa. Pub. Util. Comm'n*, 526 A.2d 1243 (Pa. Cmwlth. 1986); Columbia R.B. at 4-5.

residential customers who are paying unreasonably low rates."[232] However, because the difference between the commission's approved rates and the city's proposed rates, for an average residential customer, results in a $1.84 per year difference, the difference was determined to be *de minimis*.[233]

Columbia argues, a $0.70 per month differential for City of Pittsburgh and Borough of Perryopolis customers due to excessive restoration cost requirements is a small differential to pay.

OCA's Objections to the MLC

OCA explains that local paving and restoration costs are included in the Company's cost of service,[234] and that such costs will be reflected in the revenue requirement authorized in this proceeding. OCA submits the dispute is whether a *de minimus* portion of Columbia's costs of service (less than 1%) consisting of local paving and restoration services, should be recovered as a surcharge from customers in two municipalities and credited to customers in other municipalities through the proposed MLC rate to solve the issue of certain municipalities charging what Columbia considers to be unjustifiably high fees related to utility restoration work.[235] OCA concludes the Company's proposed MLC rate design must be rejected because the Company has failed to demonstrate that the MLC rate is not unduly discriminatory and instead is just and unreasonable.[236]

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[232] *Pittsburgh v. Pa. Pub. Util. Comm'n*, 526 A.2d 1243, 1247 (1986) (citing *Phila. Elec. Co. v. Pa. Pub. Util. Comm'n*, 470 A.2d 654, 658 (1984)).

[233] 526 A.2d at 1247-48; Columbia R.B. at 4-5.

[234] OCA St. 5SR at 37; OCA M.B. at 7.

[235] OCA St. 5SR at 39.

[236] OCA M.B. at 7.

OCA submits the very objective of the MLC is to treat customers differently by charging different rates based on the locality in which the customer resides. Specifically, the MLC will operate by being a monthly MLC charge of $0.70 per bill to customers located in the City of Pittsburgh and the Borough of Perryopolis, and a monthly MLC credit of $7.44 per bill to customers located in Roscoe Borough and New Sewickley Township.[237]

Specifically, OCA argues that the proposed MLC rate design creates an unreasonable preference and disadvantage in rates depending on which municipality a customer resides, *i.e.*, the locality, and creates an unreasonable difference in rates as between localities, and therefore must be rejected. OCA argues that setting rates that make or grant an unreasonable preference to a customer and an unreasonable prejudice or disadvantage to another customer is statutorily prohibited, as is setting rates that establish an unreasonable difference as between localities.[238]

OCA also argues that Columbia has failed to carry its burden of proof to establish PennDOT standards as the appropriate baseline from which to measure costs absent statewide legislation, regulation, or policy. According to OCA, under existing law, Columbia must comply with the restoration requirements set by the various localities within its service area. There is no existing legislation or regulation that establishes a statewide standard on restoration work, and municipalities are free to impose requirements that exceed the PennDOT standards. Absent a statewide policy that changes the *status quo*, OCA submits the Company's proposed MLC is not a legitimate solution because it creates an unreasonable difference in rates as between localities.[239]

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237 OCA St. 5 at 28.

238 66 Pa.C.S. § 1304; OCA M.B. at 8.

239 OCA M.B. at 9.

OCA and CAUSE-PA also argue the proposed MLC is $0.70 per month and, therefore, would reflect less than 1% of Columbia's total cost of serving the average Residential customer, and the remaining 99% of the cost of service is not addressed in the MLC.[240] They argue it is unreasonable to recognize this less than 1% difference in the cost of serving customers in different municipalities and to ignore cost differences which may exist for the remaining 99% of the cost of service.[241] OCA argues the "fairness" of a utility rate generally means that the rate bears a reasonable relationship to the utility's cost of serving the customer without exceeding the value of service to the customer.[242]

For example, to serve the City of Pittsburgh, Columbia has installed an average of 54 feet of distribution main per customer.[243] To serve New Sewickley Township, Columbia has installed an average of 142 feet of distribution main per customer.[244] OCA submits the average feet of distribution mains installed by Columbia to serve a customer in the City of Pittsburgh is much lower than the average feet of distribution mains installed by Columbia to serve a customer in New Sewickley Township.[245] However, under the MLC, OCA asserts City of Pittsburgh customers would be assessed higher charges than New Sewickley Township customers, and the MLC fails to account for the lower costs of the newly installed distribution mains serving the City of Pittsburgh.[246] OCA further asserts, while the same MLC would be assessed as the same flat charge to all customers in a municipality served by Columbia, the MLC does not recognize differences in the costs associated with serving different customer

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240 OCA St. 5 at 29.

241 *Id;* OCA M.B. at 10.

242 *See* James C. Bonbright et al., *Principles of Public Utility Rates*, at 82-92 (1st ed. 1988); *See also* OCA M.B. at 10.

243 OCA M.B. at 10.

244 *Id.*

245 OCA St. 5SR at 41; OCA M.B. at 10.

246 *Id*.

classes,[247] as residential, commercial, and industrial customers would each be assessed the same amount, despite cost-of-service differences between them.[248]

OCA further points out the proposed difference in rates as between localities in which customers reside is not based on any customer behavior that would cause the Company to incur greater costs in restoration work. Rather, the difference in rates is based on the decisions of the local municipal officials presiding over the municipalities that set the paving and restoration requirements, over which utility consumers have little to no control.[249]

Accordingly, OCA argues Columbia has failed to meet its burden demonstrating that the rate discrimination caused by the MLC is reasonable and permitted under the Public Utility Code. OCA argues the difference in rates as between localities is unreasonable and that it creates an unreasonable preference and prejudice in rates depending on where a consumer resides, and under Section 1304 of the Public Utility Code, such a rate is prohibited.[250]

Impermissible Single-Issue and Discriminatory Ratemaking

OCA also argues the MLC is discriminatory and an attempt at impermissible single-issue ratemaking, similar to retroactive ratemaking, which is generally prohibited if it impacts on a matter normally considered in a base rate case, such as this proceeding.[251] OCA argues the proposed MLC is discriminatory and constitutes single-issue ratemaking because the costs that Columbia proposes to recover

247 OCA St. 5 at 30; OCA M.B. at 10-11.

248 OCA M.B. at 10-11.

249 OCA M.B. at 11.

250 *Id.*

251 *See Popowsky v. Pa. Pub. Util. Comm'n*, 13 A.3d 583 (Pa. Cmwlth. 2011).

through the MLC apply to costs that are normal, ongoing costs of providing natural gas distribution service. Attempting to single out municipal restoration costs by rewarding some ratepayers and punishing others in hopes of making political change at the municipality level, according to OCA, is both discouraged single-issue ratemaking and an unreasonable attempt at a solution to a political issue that customers likely will not understand.[252]

OCA concludes Columbia has failed to carry its burden of proof that the MLC rate is not unjust, unreasonable and unduly discriminatory because it creates unreasonable differences in rates as between localities, makes an unreasonable preference and disadvantage to consumers in rates based on where they reside, is not aligned with well-established principles of cost causation, is an attempt at impermissible single-issue ratemaking, and is not supported by record evidence as being necessary.[253] Accordingly, OCA concludes the MLC does not serve or protect the interests of Columbia's consumers.

CAUSE-PA's Position

Rate Discrimination and Improper Cost Shifting

CAUSE-PA submits the MLC will not assess charges or credits to customers residing in any other municipality served by Columbia, even though those customers also pay for the paving and restoration costs for Pittsburgh, Perryopolis, Roscoe Borough, and New Sewickley through base rates.[254] CAUSE-PA asserts the

[252] OCA M.B. at 12-13.

[253] 66 Pa.C.S. §§ 315(a), 1301(a), 1304; OCA R.B. at 2-3.

[254] *See* OCA St. 5 at 30; OCA St. 5-SR at 38; CAUSE-PA St. 6-R at 54; CAUSE-PA M.B. pp. 5-6.

proposed MLC would create impermissible cost shifting by inequitably charging additional fees to some customers based solely on their location and using that money to provide substantial credits to other customers based solely on their location,[255] resulting in unreasonable and inequitable geographic rate discrimination between these two groups of customers.[256] CAUSE-PA also argues the MLC would create impermissible interclass subsidies between residential and commercial customers by charging residential customers more than their fair share and crediting commercial customers more than their fair share.[257]

CAUSE-PA submits the Code prohibits the establishment of rates or charges which subject any person to unreasonable prejudice or disadvantage, "either as between localities or as between classes of service."[258] CAUSE-PA agrees with OCA that it is unjust and unreasonable to assess additional charges on over 22,000 residential customers, largely urban residents of the City of Pittsburgh, based solely on the municipality in which they reside,[259] an inequity further compounded by Columbia's attempt to direct those funds specifically to benefit 2,116 customers – based solely on their locality, despite that the cost of paving and restoration costs are reflected in rates for all Columbia customers through base rates.[260]

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255 OCA St. 5-SR at 38; *see* 52 Pa. Code § 69.3302(a)(4) (when evaluating alternative ratemaking mechanisms, the Commission considers how the ratemaking mechanism and rate design limit or eliminate interclass and intraclass cost shifting); CAUSE-PA M.B. pp. 5-6.

256 66 Pa.C.S. § 1304; CAUSE-PA M.B. at 6.

257 OCA St. 5-SR at 38-39; CAUSE-PA M.B. pp. 6-7.

258 66 Pa.C.S. § 1304; CAUSE-PA M.B. at 7.

259 OCA St. 5 at 30; CAUSE-PA M.B. pp. 6-7.

260 OCA St. 5 at 30; CAUSE-PA M.B. pp. 6-7.

CAUSE-PA also agrees with OCA that the MLC violates the cost causation principle (because the customers did not cause these higher costs) and is fundamentally unfair to consumers to whom the MLC will apply.[261] While there are many costs embedded in rates that may vary based on geographic region, CAUSE-PA argues the MLC cherry picks a single component of the cost of service that differs between municipalities (i.e. municipal paving and restoration requirements), which accounts for "less than 1% difference in the cost of serving customers in different municipalities and ignores cost differences which may exist for the remaining 99% of the cost of service."[262]

CAUSE-PA points out that Columbia witness Kevin Johnson admits that paving and restoration requirements are already included in the Company's cost of service, and reflected in the base rates of all Columbia customers.[263] Mr. Mierzwa explained, in addition to the unfairness of the MLC charge itself, it is also unfair and unreasonable that *only* the 2,116 customers in New Sewickley Township and Roscoe Borough would receive the MLC credit when the additional paving and restoration costs incurred in Pittsburgh and Perryopolis are charged to *all* Columbia customers through base rates.[264]

CAUSE-PA further asserts that, in addition to improper geographic rate discrimination, the proposed MLC would also create unjustified and unreasonable rate

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261 OCA St. 5-SR at 39-40; *see* 52 Pa. Code § 69.3302(a)(1) (When evaluating alternative ratemaking mechanisms, the Commission considers how the ratemaking mechanism and rate design align revenues with cost causation principles.); CAUSE-PA M.B. at 7.

262 OCA St. 5-SR at 38; CAUSE-PA M.B. at 7-8.

263 CPA St. 6-R at 54; CAUSE-PA M.B. at 8.

264 OCA St. 5-SR at 38; CAUSE-PA M.B. p.8.

subsidization across rate classes.[265] Mr. Mierzwa explained that the MLC does not recognize differences in the costs associated with serving different customer classes.[266]

CAUSE-PA concludes that the MLC disregards cost causation principles and would create impermissible geographic rate discrimination and interclass cost shifting.

Analysis

Just and Reasonable Charge

As a matter of law, a public utility's rates must be just and reasonable and in conformity with regulations or orders of the Commission.[267] Rates must not be unduly discriminatory.[268]

The Commission "has broad discretion in determining whether rates are reasonable" and "is vested with discretion to decide what factors it will consider in setting or evaluating a utility's rates."[269] The Commission's discretion to determine if a requested rate is just and reasonable includes the "power to make and apply policy" concerning the appropriate balance between rates charged to consumers and returns allowed to utility investors.[270]

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265 66 Pa.C.S. § 1304; CAUSE-PA M.B. p. 8.

266 OCA St. 5 at 30; CAUSE-PA M.B. pp. 8-9.

267 66 Pa.C.S. § 1301(a).

268 66 Pa.C.S. § 1304.

269 66 Pa.C.S. § 1304.

270 *Popowsky v. Pa. Pub. Util. Comm'n*, 665 A.2d 808, 812 (Pa. 1995).

The evidence establishes that local paving and restoration costs are included in the Company's cost of service, as reflected in the revenue requirement authorized in this proceeding.[271] The evidence further establishes that Columbia is requesting that less than 1% of its costs of service to be recovered as a surcharge from customers in two municipalities and credited to customers in other municipalities through the proposed MLC rate to address the claim by Columbia that certain municipalities are charging what Columbia considers to be unjustifiably high fees related to utility restoration work.[272]

Columbia asserts it has proposed the MLC to discourage municipalities from adopting costly road permitting and restoration requirements that increase the cost of Columbia's pipeline replacements program.[273] Columbia explains, the implementation of the MLC provides notice to municipalities that enacting excessive permitting and restoration requirements may result in their residents, who are of customers of Columbia, being charged a higher rate for natural gas service.[274]

It is important to note that the legislature has given municipal governments broad powers to establish and maintain roadways for the safe and proper use of the public. If a municipality chooses to assess a fee on public utilities as part of its prescribed police powers, then it must identify the purpose of that fee, how the fee connects to the promotion of health, safety and/or welfare of township residents and the specific regulatory activities which the fee supports. Moreover, as Columbia suggests,

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271 OCA St. 5SR at 37.

272 OCA St. 5SR at 39.

273 Columbia St. No. 1, p. 22.

274 Columbia St. No. 9, p. 19.

the mechanism for obtaining payment must be a "fee," not a "tax," that is, its purpose must be cost recovery, not revenue generation.[275]

In *Kittanning Borough v. American Natural Gas Co.*, the Supreme Court stated "[i]f anything can be considered as settled under the decisions of our Pennsylvania courts, it is that municipalities under the guise of a police regulation cannot impose a revenue tax."[276] Townships of the Second Class have authority and control over the improvement of streets with their jurisdictional boundaries. Section 1671 of the Municipal Code states "[t]hat the municipal authorities and courts having jurisdiction in any city of this commonwealth shall have exclusive control and direction of the opening, widening, narrowing, vacating and changing grades of all streets, alleys, and highways within the limits of such city.…"[277]

While this provision of the Municipal Code specifically affords police power over streets to cities within the Commonwealth, the Commonwealth Court has extended those powers to townships, as well.[278] Townships' authority over streets is described in the Second Class Township Code. Section 2304 of the Second Class Township Code states that "[t]he board of supervisors may by ordinance enact, ordain, survey, lay out, open, widen, straighten, vacate and relay all roads and bridges and parts thereof which are located wholly or partially within the township."[279] The Second Class

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275 *Kittanning Borough v. American Natural Gas Co.*, 86 A. 717 (Pa. 1913) (*Kittanning Borough*).

276 *Kittanning Borough*, 86 A. 717 (Pa. 1913).

277 53 P.S. § 1671.

278 *See In re Heidelberg Tp. for Footpath, Alleyway and ridge Purposes*, 428 A.2d 282 (Pa. Cmwlth. 1981) (holding that townships have the power to condemn and maintain public streets and roads pursuant to Section 1671 of the general Municipal Code; this decision has been followed by subsequent Commonwealth Court decisions and, to date, has not been challenged).

279 53 P.S. § 67304

Township Code also expressly authorizes townships of the second class to control the appearance, construction and maintenance of their streets and roads. Similarly, Section 2308 of the Second Class Township Code addresses streets openings and repairs. It mandates that "[p]ublic roads in townships shall, as soon as practicable, be effectually opened. All public roads shall at all seasons be kept in repair and reasonably clear of all impediments to easy and convenient traveling at the expense of the township."[280]

In addition, Section 50 of the Third Class City Code, grants cities the power to "define a reasonable district within which all electric light wires, telephone and telegraph wires shall be placed under ground in conduits owned and constructed either by the municipality or by corporations owning such wires."[281] Pennsylvania Courts have upheld the implementation of this provision provided that the municipality does so in a reasonable manner. For example, in *Penelec v. City of Erie*, the Erie County Court of Common Pleas upheld a City of Erie ordinance requiring all wires to be placed underground by explaining that a company accepting a franchise that involves the use of the public streets of a city must accept it subject to the continuous right of such municipality to perform its strictly legal functions and obligations. The Court further explained, the municipality must not divest itself of the governmental or police powers which it holds in trust for the public.[282]

It is hard to imagine many functions of local government more important than establishing, repairing and maintaining roadways for the safe, convenient and proper use of the traveling public. The legislature has given this duty to the local municipalities along with mechanisms to provide for the costs of properly discharging such duty. If the

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280 53 P.S. § 67308.

281 53 P.S. § 37403(50).

282 *See Penelec v. City of Erie*, 23 Pa.D.&C.2d 61 (Erie C.C.P. 1959); *see also Duquesne Light Co. v. Borough of Monroeville*, 298 A.2d 252 (Pa. 1972); *Pa. Power Co. v. Twp. of Pine*, 926 A.2d 1241 (Pa. Cmwlth. 2007).

municipality enacts an ordinance that is unenforceable or violates the enabling legislation, as challenged in *Kittanning Borough* or the *City of Lancaster* case, statutory remedies already exists to those who believe they are aggrieved by local municipalities attempting to charge fees that essentially serve as a tax to enhance general revenues and not as reimbursement of municipal costs.[283]

Where Columbia believes that municipal fees are excessive, it is not without recourse. For example, Columbia asserts, where negotiations are unsuccessful, and where projects need not proceed immediately, Columbia may proceed with litigation to challenge what it believes to be illegal or unreasonable fees or requirements.[284] For example, in October 2022, Columbia filed a petition which is currently pending in the Commonwealth Court of Pennsylvania challenging certain ordinances of Menallen Township, Fayette County, that impose permitting and right-of-way fees that Columbia asserts are illegally excessive.[285] If Columbia believes that local municipalities are illegally or improperly charging fees that are not commensurate with costs incurred by the municipality and charged solely to enhance general revenues, it is unclear why Columbia has not initiated litigation to challenge such municipal requirements timely upon identifying such instances and to request that the litigation be expedited, where necessary.

Instead of availing itself of the long-standing legislative remedies already available to challenge such any such municipal regulation which Columbia believes to be excessive, Columbia seeks to impose a charge on its customers who live in the City of

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283 *See PPL Elec. Utils. Corp. v. City of Lancaster*, 214 A.3d 639 (Pa. 2019).

284 As interpreted by Pennsylvania courts, local municipalities may only charge fees commensurate with costs incurred and may not use fees to enhance general revenues. *See PPL Elec. Utils. Corp. v. City of Lancaster*, 214 A.3d 639 (Pa. 2019) (*City of Lancaster*).

285 Columbia St. No. 7, pp. 21, 24.

Pittsburgh and Perryopolis Borough, where such regulations have been enacted, because they have been deemed excessive by Columbia. One stated purpose by Columbia for the additional charge is to discourage municipalities from adopting costly road permitting and restoration requirements that increase the cost of Columbia's pipeline replacements program.[286] Columbia further explains, the implementation of the MLC provides notice to municipalities that enacting excessive permitting and restoration requirements may result in their residents, who are also customers of Columbia, being charged a higher rate for natural gas service.[287] Apparently, Columbia believes local residents will encourage their locally elected representatives to forego enacting such ordinances that are intended to maintain safe and adequate roadways, so that the customers gas utility bills will not be increased by Columbia. Certainly, the Commission should not impose such a proposed charge on utility customers for such a purpose, especially when long standing remedies to address improper local regulations have been in place for decades in our municipalities and Courts. Furthermore, given that the legislature has provided broad police powers to municipalities and the legislation provides a mechanism to challenge the appropriateness of the municipal requirements, it is unclear why the Commission would or could step in and regulate these issues when these issues are being appropriately addressed by the Common Pleas Courts and appellate courts.

As stated above, the Commission is vested with broad discretion in determining whether rates are reasonable, which includes the power to make and apply policy concerning the appropriate balance between rates charged to consumers and returns allowed to utility investors.[288] Accordingly, for the reasons stated above, Columbia has failed to carry its burden of proof that the MLC rate is just and reasonable, and the proposed charge is not supported by record evidence as being necessary.

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286 Columbia St. No. 1, p. 22.

287 Columbia St. No. 9, p. 19.

288 *Popowsky v. Pa. Pub. Util. Comm'n*, 665 A.2d 808, 812 (Pa. 1995).

Excessive Rates

Columbia argues that municipalities should not be using Columbia's main replacement projects to supplement their own municipal budgets, and that the MLC is an important step to encouraging municipalities to adopt reasonable permit fees and restoration ordinances. Columbia asserts customers located in Pittsburgh and Perryopolis Borough are receiving the benefit of better roads without concomitant tax increases because these municipalities' excessive restoration requirements are being charged to Columbia and its customers. Columbia further asserts the MLC recognizes that restoration requirements of Pittsburgh and Perryopolis, considered by Columbia to be excessive, which Columbia submits benefit the customers in the municipalities that impose these requirements, should be borne by those customers.[289]

While the Commission has discretion to determine reasonable differences in rates, such differences must be justified, for example: "by a variety of considerations including the quantity of service used, the nature of the use, the time of the use, the pattern of the use, differences of conditions of service or cost of service."[290] Here, Columbia has failed to meet its burden of proving that the MLC would provide just and reasonable rates under Sections 1301(a) and 1304 of the Public Utility Code, 66 Pa.C.S.§§ 1301(a), 1304, and consistent with generally accepted ratemaking principles.

The MLC would assess charges through base rates to customers residing in municipalities with requirements that exceed PennDOT requirements and providing a credit to certain municipalities with less stringent requirements.[291] The MLC will not

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289 Columbia St. No. 9, p. 19.

290 *Zucker v. Pa. Pub. Util. Comm'n,* 402 A.2d 1377, 1382 (Pa. Cmwlth. 1979).

291 *Id.* at 16.

assess charges or credits to customers residing in any other municipality served by Columbia, despite that those customers also pay for the paving and restoration costs for Pittsburgh, Perryopolis, or Roscoe Borough, and New Sewickley, where Columbia has determined rates are not excessive.[292]

Columbia further asserts that the current circumstances may encourage even more municipalities to employ, what Columbia characterizes as "similar strategies" to have a greater portion of their paving costs and budgetary shortfalls shifted to Columbia and, ultimately, Columbia's customers.[293] However, Columbia submitted insufficient evidence to establish that any municipal requirements had the effect of shifting costs that rightfully should be borne by taxpayers in certain municipalities to ratepayers residing in other municipalities in Columbia's service territory. No credible and specific evidence was established to support the conclusion by Columbia that any municipality was imposing excessive or unreasonable requirements or charges that shifted the costs properly incurred by a municipality, onto Columbia customers, or that the municipal residents improperly benefitted from such municipal requirements. Columbia's conclusions were simply not supported by the record evidence presented in this proceeding.

Although Columbia seems to characterize the enactment of some municipal cost recovery programs as a "strategy," no specific evidence was provided to establish that such strategies were employed by any municipality, why any specific ordinance was improper (other than they substantially exceeded PennDOT standards), the stated purpose or reasons for the adoption of any specific municipal requirements, when the ordinances were adopted, or any specific provisions of the ordinance or municipality or other specific factors demonstrating they were unfair or improper. In addition, no specific

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292 *See* OCA St. 5 at 30; OCA St. 5-SR at 38; CPA St. 6-R at 54.

293 Columbia St. No. 1, pp. 23-24.

evidence or details were established to determine what action was taken by Columbia, Columbia customers, residents of the municipality or others to challenge the enactment of the ordinances through the already established processes provided by law to challenge illegal or improper ordinances or other requirements imposed by municipal governments.

Columbia further characterizes municipal fees, requirements and restoration costs as unreasonable,[294] however no evidence specifically established what ordinances throughout the Commonwealth were unfair or unreasonable, other than they exceeded PennDOT requirements. In addition, no credible evidence was presented to establish that the PennDOT requirements were reasonable or why PennDOT requirements were considered by Columbia as the benchmark for municipalities to follow in enacting their restoration fees and requirements.

Columbia further argues that municipalities should not be using Columbia's main replacement projects to improperly supplement their own municipal budgets in support of its request for a MLC, but Columbia provided no specific competent evidence that this was occurring in any municipality and did not cite a single example where a municipal requirement was successfully challenged.[295]

Columbia cited examples where it asserts, for two proposed pipeline projects in one unidentified Pennsylvania township, Columbia calculated the permitting and restoration costs demanded by the township compared to what would be required under PennDOT requirements.[296] According to Columbia, under PennDOT requirements, the permit fees for these projects would be $2,510; while under the township's ordinance, permitting and engineering fees would be $143,740, making the

294 *See* Columbia St. No. 7, p. 25.

295 *See PPL Elec. Utils. Corp. v. City of Lancaster*, 214 A.3d 639 (Pa. 2019).

296 Columbia St. No. 1, p. 19.

township's costs 57 times the cost of PennDOT's requirements.[297] Obviously, this is a significant difference, however Columbia did not provide any evidence to explain specifically what was being required by the township or why, or any special circumstances to explain the disparity in costs versus the reasons why the PennDOT costs were substantially lower.

As explained in the cases cited herein, various costs of a municipality are considered in determining road permit and restoration fees, which obviously include engineering and administrative fees, road preparation and surface paving, adjacent structures such as sidewalks and bridges, the existence of other utilities or other fixtures that could be affected, the volume of traffic on the roadways and the life expectancy of the roadway when the construction is anticipated, specific road and sidewalk composition, safety measures and police or other traffic control measures, or other factors that require municipal governments to invest more money in the repair, to name a few. More evidence is needed than conclusions that permit fees are increasing, and fees and restoration demands significantly exceed PennDOT requirements.

Logically, there could be significant variations in the costs of engineering and traffic control measures and their associated costs, as well as other variables related to road openings and restoration in the city of Pittsburgh as compared to Roscoe Borough, which could affect the costs incurred by each respective municipality. Presumably, an urban city with highly traveled cobblestone road surfaces and adjacent slate sidewalks under which several utilities maintain facilities, might reasonably require significant engineering and reconstruction costs and therefore might have significantly higher permit and restoration fees compared to an infrequently traveled rural roadway consisting of a gravel surface. However, the record evidence does not detail such

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297 Columbia St. No. 1, p. 19.

characteristics for the respective municipalities in order to attempt to determine whether or not the municipal requirements are excessive.

Additionally, although various municipalities and PennDOT may have different requirements, for whatever reason, as identified above, Columbia simply compares the standard PennDOT requirements with the municipal requirements and concludes that because the standards prescribed for the City of Pittsburgh and the Perryopolis are significantly higher, they are excessive and unfairly benefit Columbia customers who live there.[298] In addition, Columbia apparently assumes that the PennDOT standards are appropriate for all of the various and unique municipalities throughout the Commonwealth, despite the determinations made by the elected officials of those municipalities.

As the MLC constitutes a separate rate applicable only to certain Columbia customers, the utility bears the burden of proof to establish the justness and reasonableness of every element of its requested rate proposal.[299] For all of the reasons set forth above, Columbia has failed to meet its burden of proof to establish that the MLC is just and reasonable.

Rate Discrimination and Improper Cost Shifting

OCA and CAUSE-PA also argued the MLC disregards cost causation principles, would create impermissible geographic rate discrimination and interclass cost shifting

298 Columbia St. No. 9, p. 18.

299 66 Pa.C.S. §§ 315(a), 1308(d).

Section 1304 of the Public Utility Code states, "No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service."[300] In order for a rate differential to survive a challenge brought under 66 P.S. § 1304, the utility must show that the differential can be justified by the difference in costs required to deliver service to each class. The rate cannot be illegally high for one class and illegally low for another. The rate differentials must advance efficient and satisfactory service to the greatest number at the lowest overall charge.[301]

The proposed MLC would assess charges to customers residing in municipalities with requirements that exceed PennDOT requirements and providing a credit to certain municipalities with less stringent requirements.[302] The MLC would charge residents of Pittsburgh (Allegheny County) and Perryopolis (Fayette County) an additional $.70 per bill and would credit customers in Roscoe Borough (Washington County) and New Sewickley Township (Beaver County) $7.44 per bill ($89.28 annually) regardless of customer class and based solely on their municipality.[303] The MLC will not assess charges or credits to customers residing in any other municipality served by Columbia, despite that those customers also pay for the paving and restoration costs for Pittsburgh, Perryopolis, Roscoe Borough, and New Sewickley through base rates.[304]

The proposed charge would create impermissible cost shifting by inequitably charging additional fees to some customers based solely on their location and using that money to provide substantial credits to other customers based on their

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300 66 Pa.C.S. § 1304.

301 *Id.*

302 *Id.* at 16.

303 *Id.* at 19.

304 *See* OCA St. 5 at 30; OCA St. 5-SR at 38; CPA St. 6-R at 54.

location.[305] This cost shifting would result in unreasonable and inequitable geographic rate discrimination between these two groups of customers.[306] The MLC would also create impermissible interclass subsidies between residential and commercial customers by charging residential customers more than their fair share and crediting commercial customers more than their fair share.[307]

Although the Code recognizes that classification of customers based on a variety of circumstances can justify the establishment of different rates and charges,[308] the establishment of rates or charges which subject any person to unreasonable prejudice or disadvantage, "either as between localities or as between classes of service, is prohibited."[309]

As OCA and CAUSE-PA argued, it is unjust and unreasonable to assess additional charges on over 22,000 residential customers, largely urban residents of the City of Pittsburgh, based solely on the municipality in which they reside.[310] This inequity is further compounded by Columbia's attempt to direct those funds specifically to benefit 2,116 customers, again based solely on their locality, despite that the cost of paving and restoration costs are reflected in rates for all Columbia customers through base rates.[311]

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305 OCA St. 5-SR at 38; *see* 52 Pa. Code § 69.3302(a)(4) (when evaluating alternative ratemaking mechanisms, the Commission considers how the ratemaking mechanism and rate design limit or eliminate interclass and intraclass cost shifting.).

306 66 Pa.C.S. § 1304.

307 OCA St. 5-SR at 38-39.

308 66 Pa.C.S. § 1304.

309 66 Pa.C.S. § 1304.

310 OCA St. 5 at 30.

311 *Id.*

Furthermore, the evidence established that the MLC violates the cost causation principle, as the customers being assessed the additional charge did not cause the higher costs and it is fundamentally unfair to the customers who are being assessed the additional charge. Here, Columbia has selected one single component of its cost of service that differs between municipalities (i.e. municipal paving and restoration requirements), which accounts for "less than 1% difference in the cost of serving customers in different municipalities and ignores cost differences which may exist for the remaining 99% of Columbia's cost of service."[312]

As OCA witness Mr. Mierzwa testified, there are other differences in cost of service not accounted for by the MLC:

> For example, to serve the City of Pittsburgh, Columbia has installed an average of 54 feet of distribution main per customer. To serve New Sewickley Township, Columbia has installed an average of 142 feet of distribution main per customer. Under the MLC, City of Pittsburgh customers would be assessed an additional charge even though based on the distribution main footage installed to serve City of Pittsburgh customers, the cost of serving City of Pittsburgh customers is less than the cost of serving New Sewickley Township customers, but New Sewickley Township customer would receive a credit under the MLC.[313]

In addition, paving and restoration requirements are already included in the Company's cost of service, and reflected in the base rates of all Columbia customers.[314] Mr. Mierzwa testified, in addition to the unfairness of the MLC charge itself, it is also unfair and unreasonable that only the 2,116 customers in New Sewickley Township and Roscoe Borough would receive the MLC credit when the additional paving and

312 OCA St. 5-SR at 38.

313 OCA St. 5 at 29.

314 CPA St. 6-R at 54.

restoration costs, alleged to be excessive, incurred in Pittsburgh and Perryopolis, are charged to all Columbia customers through base rates.[315]

In addition to improper geographic rate discrimination, the MLC would also create unjustified and unreasonable rate subsidization across rate classes.[316] Mr. Mierzwa explained that the MLC does not recognize differences in the costs associated with serving different customer classes.[317] In Columbia witness Johnson's rebuttal testimony, he included a chart showing the MLC charges and credits based on the Company's Peak and Average cost allocation study.[318]

Table 1: Municipal Levelization Charge based on Peak and Average cost allocation.[319]

	RSS/RDS	SDS/LGSS	SGS/DS-1	SGS/DS-2	Total
Municipal Levelization Charge	$0.46	$182.19	$1.67	$14.45	$0.70
Municipal Levelization Credit	$(4.88)	$(1,639.67)	$(22.84)	$(190.04)	$(7.44)

As CAUSE-PA correctly argued, the table above shows that, if allocated according to the Company's allocation study based on distribution mains related costs, residential customers in Pittsburgh and Perryopolis would be assessed only a $0.46 MLC charge. However, the Company instead elected to allocate the charge on a $0.70 per bill basis regardless of rate class, resulting in an additional 52% of the MLC charge being

315 OCA St. 5-SR at 38.

316 66 Pa.C.S. § 1304.

317 OCA St. 5 at 30.

318 CPA St. 6-R at 55.

319 *Id.*, Table KLJ-5R.

assessed residential customers in Pittsburgh and Perryopolis.[320] Accordingly, the MLC would create a dual inequity of geographic rate discrimination against Pittsburgh residents and interclass subsidization, pushing additional costs onto City of Pittsburgh's residential customers.[321]

Based upon the record evidence, I must conclude that Columbia has failed to meet its burden demonstrating that the rate discrimination caused by the MLC is reasonable and permitted under the Public Utility Code. In addition, I conclude that the MLC presents unreasonable difference in rates as between localities and that it creates an unreasonable preference and prejudice in rates depending on where a consumer resides. Under Section 1304, such a rate is prohibited.

A public utility's rates must be just and reasonable and in conformity with regulations or orders of the Commission.[322] As OCA correctly argued, under the MLC, customers who would pay the MLC charge are not the cost causers and the customers who would receive the MLC credit did nothing to deserve the benefit, and therefore the MLC is inconsistent with well-established cost causation principles.[323] Columbia has failed to demonstrate with substantial evidence that it is a just and reasonable rate.

320 *Id.*

321 OCA St. 6 at 27-29; OCA St. 6 at 28.

322 66 Pa.C.S. § 1301(a).

323 OCA M.B. pp. 11-12.

Conclusion

A public utility has the burden of proof to show that a proposed rate is "just and reasonable."[324] Thus, as the proponent of the Municipal Levelization Charge, the Company, has the burden of proof to demonstrate that the proposed charge is just and reasonable. For all the reasons set forth above, I conclude that Columbia has failed to meet its burden of proof and therefore the request to approve the Municipal Levelization Charge must be rejected.

VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. §§ 1301, 1308(d).

2. Under Section 1301 of the Public Utility Code, a public utility's rates must be just and reasonable. 66 Pa.C.S. § 1301.

3. The Commission possesses a great deal of flexibility in its ratemaking function. In determining just and reasonable rates, the Commission has discretion to determine the proper balance between the interests of ratepayers and utilities. *See Popowsky v. Pa. Pub. Util. Comm'n*, 665 A.2d 808, 812 (Pa. 1995).

4. Commission policy promotes settlements. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative resources. 52 Pa. Code § 5.231.

[324] 66 Pa.C.S. § 315(a); *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa. Cmwlth. 1981).

5. Settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401.

6. The decision of the Commission must be supported by substantial evidence. 2 Pa.C.S. § 704.

7. A public utility's rates must be just and reasonable and cannot result in undue rate discrimination. 66 Pa.C.S. §§ 315(a), 1301, 1304.

8. A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. 66 Pa.C.S. § 315(a).

9. Columbia has the burden of proving that the Municipal Levelization Charge rate is just and reasonable. 66 Pa.C.S. §§ 315(a), 1301.

10. Columbia has the burden of proving that the Municipal Levelization Charge rate is not unduly discriminatory. 66 Pa.C.S. §§ 315(a), 1304.

11. As a matter of law, a public utility's rates must be just and reasonable and in conformity with regulations or orders of the Commission. 66 Pa.C.S. § 1301(a).

12. Setting rates that make or grant an unreasonable preference to a customer and an unreasonable prejudice or disadvantage to another customer is statutorily prohibited. 66 Pa.C.S. § 1304.

13. No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service. 66 Pa.C.S. § 1304.

14. As the MLC constitutes a separate rate applicable to certain Columbia customers, the utility bears the burden of proof to establish the justness and reasonableness of every element of its requested rate proposal. 66 Pa.C.S. §§ 315(a),1308(d).

ORDER

THEREFORE

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement including all the terms and modifications thereof, filed at Docket R-2024-3046519, on August 28, 2024, and entered into by Columbia Gas of Pennsylvania, Inc., the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate and the Pennsylvania State University, be approved and adopted, without modification.

2. That upon Columbia Gas of Pennsylvania Gas Inc LLC's filing of a tariff supplement acceptable to the Commission as conforming with this Order and the Settlement and the Commission's approval thereof, the Tariff rates, as approved by the Commission, shall become effective for service rendered on and after December 14, 2024.

3. That Columbia Gas of Pennsylvania, Inc., the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, the Office of Consumer

Advocate, the Office of Small Business Advocate and the Pennsylvania State University shall comply with the terms and conditions of the Joint Petition for Settlement filed in this proceeding as though each term and condition stated therein had been subject of an individual ordering paragraph.

4. That the Formal Complaint filed by the Office of Small Business Advocate in this proceeding at Docket No. C-2024-3047905 be deemed satisfied and marked closed.

5. That the Formal Complaint filed by the Office of Consumer Advocate in this proceeding at Docket No. C-2024-3047675 be deemed satisfied and marked closed.

6. That the Formal Complaint filed by Ronald T. Bernick in this proceeding at Docket No. C-2024-3047905 be dismissed and marked closed.

7. That the Formal Complaint filed by Linda Allison C-2024-3048588 in this proceeding at Docket No. C-2024-3048588 be dismissed and marked closed.

8. That the Formal Complaint filed by Philip Bloch C-2024-3048478 in this proceeding at Docket No. C-2024-3048478 be dismissed and marked closed.

9. That the Formal Complaint filed by Daniel E. Skvarla C-2024-3049677 in this proceeding at Docket No. C-2024-3049677 be dismissed and marked closed.

10. That the Formal Complaint filed by the Pennsylvania State University in this proceeding at Docket No. C-2024-3048624 be deemed satisfied and marked closed.

11. That upon acceptance and approval by the Commission of the tariff supplement and supporting data filed by Columbia Gas of Pennsylvania Inc., the inquiry and investigation at Docket No. R-2024-3046519 be terminated and the docket marked closed.

12. That the proposal of Columbia Gas of Pennsylvania to implement a Municipal Levelization Charge be denied.

Date: October 1, 2024

/s/
Jeffrey A. Watson
Administrative Law Judge