

COMMONWEALTH OF PENNSYLVANIA



DARRYL A. LAWRENCE
Consumer Advocate

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
(800) 684-6560

 @pa_oca
 /pennoca
FAX (717) 783-7152
consumer@paoca.org
www.oca.pa.gov

December 30, 2025

Via Electronic Filing

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission
v.
Columbia Gas of Pennsylvania, Inc.
Docket No. R-2025-3053499

Dear Secretary Homsher:

Attached for electronic filing please find the Office of Consumer Advocate's Answer to OSBA's Petition for Reconsideration in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectively,

/s/ Jacob D. Guthrie
Jacob D. Guthrie
Assistant Consumer Advocate
PA Attorney I.D. # 334367
jguthrie@paoca.org

Enclosures

cc: The Honorable Jeffrey A. Watson (Email Only: jeffwatson@pa.gov)
The Honorable Chad Allensworth (Email Only: callenswor@pa.gov)
Office of Special Assistants (Via Email: ra-osa@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2025-3053499
 :
 Columbia Gas of Pennsylvania, Inc. :

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Answer to OSBA’s Petition for Reconsideration, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 30th day of December 2025.

(*) Can receive CONFIDENTIAL information

SERVICE BY E-MAIL ONLY

Steven C. Gray, Esq. *
Rebecca Lyttle, Esq. *
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923
sgray@pa.gov
relyttle@pa.gov
Counsel for OSBA

Scott B. Granger, Esq. *
Adam J. Williams, Esq. *
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor
Harrisburg, PA 17120
sgranger@pa.gov
adawilliam@pa.gov
Counsel for I&E

Megan E. Rulli, Esq. *
Anthony D. Kanagy, Esq. *
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101
mrulli@postschell.com
akanagy@postschell.com
Counsel for Columbia

Elizabeth R. Marx, Esq.
John W. Sweet, Esq. *
Ria M. Pereira, Esq. *
Lauren N. Berman, Esq. *
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawporject.org
Counsel for CAUSE-PA

Whitney E. Snyder, Esq. *
Thomas J. Sniscak, Esq.
Erich W. Struble, Esq. *
501 Corporate Circle, Suite 302
Harrisburg, PA 17110
wesnyder@hmslegal.com
tjsniscak@hmslegal.com
ewstruble@hmslegal.com
Counsel for PSU

James L. Crist *
Lumen Group, Inc.
4226 Yarmouth Drive, Suite 101
Allison Park, PA 15101
JLCrist@aol.com
Consultant for PSU

Emily Farah, Esq. *
NiSource Corporate Services Co.
121 Champion Way, Suite 100
Canonsburg, PA 15317
efarah@nisource.com
Counsel for Columbia

Candis A. Tunilo, Esq. *
NiSource Corporate Services Co.
800 N. Third St., Suite 204
Harrisburg, PA 17102
ctunilo@nisource.com
Counsel for Columbia

Joseph L. Vullo, Esq.*
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@bvrrlaw.com
*Counsel for Pennsylvania Weatherization
Providers Task Force*

Mark Ewen
Industrial Economics, Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140
mewen@indecon.com
Witness for OSBA

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: 717-783-5048
Fax: 717-783-7152

Dated: December 30, 2025

Counsel for:
Darryl A. Lawrence
Consumer Advocate

/s/ Jacob D. Guthrie

Jacob D. Guthrie
Assistant Consumer Advocate
PA Attorney I.D. # 334367
jguthrie@paoca.org

Christy M. Appleby
Senior Assistant Consumer Advocate
PA Attorney I.D. # 85824
CAppleby@paoca.org

Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
HBreitman@paoca.org

OCAColumbiaGas2025@paoca.org

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2025-3053499
	:	
Columbia Gas of Pennsylvania, Inc.	:	
	:	

ANSWER OF THE OFFICE OF CONSUMER ADVOCATE
IN OPPOSITION TO THE PETITION FOR RECONSIDERATION OF
THE OFFICE OF SMALL BUSINESS ADVOCATE

I. INTRODUCTION

In accordance with 52 Pa. Code Section 5.572(e), the Office of Consumer Advocate (OCA) files this Answer in Opposition to the Petition for Reconsideration (Petition) filed by the Office of Small Business Advocate (OSBA) on December 23, 2025. The OSBA seeks reconsideration of the Pennsylvania Public Utility Commission’s (Commission’s) December 9, 2025, Opinion and Order (*December 9 Order*) regarding Columbia Gas of Pennsylvania, Inc.’s (Columbia’s or the Company’s) request for a general rate increase pursuant to Section 1308(d) of the Public Utility Code.

In the *December 9 Order*, the Commission granted Columbia’s Exception No. 10, the OCA’s Exception No. 9, and Penn State University’s (PSU’s) Exception No. 2 to the extent that the Commission found that the Recommended Decision (R.D.) of Administrative Law Judges (ALJs) Jeffrey A. Watson and Chad Allensworth “did not reach a determination regarding how the chosen P&A [Peak & Average] ACOSS [Allocated Cost

of Service Study] should be implemented to allocate revenue.”¹ The Commission specifically adopted the revenue allocation methodology recommended by the OCA, finding the OCA’s recommendation “to be equitable and reasonable” because it “provid[es] for an equitable sharing of the subsidy paid for by each of” the classes forced to subsidize the costs of other classes.²

In its Petition, the OSBA “requests that the Commission reverse its decision to adopt the OCA’s revenue allocation.”³ The OSBA also “requests that the Commission abandon the new ‘negligible amount’ standard.”⁴

The OSBA’s Petition should be denied because the Petition does not meet the pleading standards for a petition for reconsideration, where new or novel arguments must be raised which were overlooked or unaddressed by the Commission.⁵ Rather, the OSBA reiterated the same evidence and arguments which the Commission expressly considered and rejected in the *December 9 Order*. Accordingly, the OCA respectfully requests that the OSBA’s Petition be denied.

¹ *December 9 Order* at 266.

² *Id.* at 269. Those classes are the RSS/RDS, SGS/DS-1, SGS/DS-2, and SDS/LGSS classes.

³ Petition at ¶ 30.

⁴ *Id.* at ¶¶ 31-33.

⁵ 52 Pa. Code § 5.572; *Duick v. Pa. Gas and Water Co.*, 56 Pa. P.U.C. 553, 559 (1985) (*Duick*); *Exec. Transp. Co. v. Pa. PUC*, 138 A.3d 145, 150-52 (Pa. Cmwlth. 2016) (affirming the Commission’s denial of a Petition for Reconsideration where the petitioner for review challenged the denial but “raised the same arguments before both the ALJs and the PUC in its Petition for Reconsideration and its appeal”).

II. ANSWER

A. **The Commission should deny the OSBA's Petition because it does not present any new or novel arguments and raises only questions which the Commission squarely addressed in the *December 9 Order*.**

In the Petition, the OSBA failed to advance a new or novel argument or identify an overlooked consideration. Instead, the issues identified by the OSBA is one which was expressly acknowledged and rejected by the Commission and, therefore, is not deserving of Commission action to modify its *December 9 Order*.⁶ Therefore, under *Duick*, the Commission should deny the OSBA's Petition.

A party may seek reconsideration of a final order, and the Commission may “rescind or amend any order made by it.”⁷ The Commission's standard for determining whether reconsideration or clarification is an appropriate relief was established in *Duick*. As the Commission has explained:

In *Duick*, the Commission reasoned that, while a petition under Section 703(g) of the Code may raise any matter designed to convince the Commission that it should exercise its discretion to amend or rescind a prior order, at the same time “[p]arties . . ., cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them.” Under the standards of *Duick*, such petitions for reconsideration and/or rehearing, are likely to succeed only when they raise “new and novel arguments” not previously heard or considerations which appear to have been overlooked or not addressed by the Commission.

The considerations of *Duick*, on application, essentially, require a two-step analysis. The first step is that we determine whether a party has offered new and novel arguments or identified considerations that appear to have been overlooked or not addressed by the Commission in its previous order. The second step of the *Duick* analysis is to evaluate the new or novel argument,

⁶ Petition at ¶¶ 23-30; *December 9 Order* at 269-71.

⁷ 66 Pa. C.S. § 703(g).

or overlooked consideration that is alleged, in order to determine whether to modify our previous decision. We will not necessarily modify our prior decision just because a party offers a new and novel argument or identifies a consideration that was overlooked or not addressed by the Commission in its previous order.⁸

In sum, a petition for reconsideration must not only raise an issue which is new or novel and has not been previously addressed by the Commission, it must also be of sufficient merit for the Commission to rescind or modify its original order.⁹

Here, the Commission considered the OSBA's position and adjudicated the same in its *December 9 Order*, in which the Commission restated the OSBA's argument that it raised in its Briefs and Reply Exceptions and expressly denied the OSBA's position, stating:

Although, under the OCA's proposal, there is a negligible amount of movement away from the cost to serve for rate classes SGS/DS-1, SGS/DS-2, and SDS/LGSS, there is no basis for continuing to require the RSS/RDS class to pay for a greater share of the subsidy than other rate classes, as the OSBA's proposal, providing for parallel progress towards cost-based rates for each of the four classes (RSS/RDS, SGS/DS-1, SGS/DS-2, and SDS/LGSS), would maintain. As illustrated by Table 25, below, under the OCA's revenue allocation proposal, the residential class would still be recovering approximately 63% of the LDS/LGSS and FLEX revenue shortfall, [$\$25.9 \div (\$25.9 + \$4.7 + \$5.5 + \$3.7 + \$1.3) = 63\%$], as opposed to 77% under the Company's proposal (i.e., [$\$34.3 \div (\$34.3 + \$3.0 + \$3.5 + \$2.4 + \$1.3) = 77\%$]) and 78% under the OSBA's proposal ([$\$32.0 \div (\$32.0 + \$2.2 + \$2.9 + \$2.8 + \$1.3) = 78\%$]).¹⁰

⁸ *Commonwealth v. Blue Pilot Energy, LLC*, Docket No. C-2014-2427655 (Order entered July 11, 2019) at 8-9 (citations omitted).

⁹ *Pittsburgh v. Pa. Dep't of Transp.*, 416 A.2d 461, 465 (Pa. 1980) (modification or rescission of the Commission's orders "must be granted judiciously and only under appropriate circumstances.").

¹⁰ *December 9 Order* at 270 (footnote omitted).

In this passage, the Commission restated the OSBA's proposal – that the RSS/RDS should pay a greater share of the subsidy which benefits to the LDS/LGSS and FLEX customer class shortfalls – and concluded that it is more appropriate for the subsidy to be shared proportionally among the RSS/RDS, SGS/DS-1, SGS/DS-2, and SDS/LGSS customer classes.¹¹ The Commission also described the OSBA's positions in its Briefs and Reply Exceptions at length.¹²

Furthermore, the legal authority relied upon by the OSBA in its Petition are insufficient to indicate that the Commission erred as a matter of law in adopting the OCA's proposed revenue allocation.¹³ First, *Lloyd*¹⁴ does not deprive the Commission of its discretion to determine how revenue should be allocated such that customer classes move towards the indicated cost of service supported by the record for that class.¹⁵ Rather, *Lloyd* merely states that the Commission must justify its determination as to differences in rates and revenue allocations by relying on ratemaking concerns, including and especially the cost of providing service, with an aim to reduce inter-class cross-subsidization over time.¹⁶ The Commonwealth Court's recent decision in *Sabree*¹⁷ does not modify the holding in

¹¹ *Id.*; compare with OSBA M.B. at 11; OSBA R.B. at 6-7; OSBA R.Exc. at 1-2.

¹² *December 9 Order* at 258-61, 264-65.

¹³ Petition at ¶¶ 23-28.

¹⁴ *Lloyd v. Pa. PUC*, 904 A.2d 1010 (Pa. Cmwlth. 2006).

¹⁵ *Id.*

¹⁶ *Id.* at 1020.

¹⁷ *Sabree v. Pa. PUC*, 2025 Pa. Commw. LEXIS 188 (Pa. Cmwlth. Nov. 17, 2025) *pets. for allocatur pending*, 722-24 MAL 2025 (filed Dec. 17, 2025)

Lloyd and is strictly limited to the allocation of subsidies approved by the Commission as in the public interest under Section 1311(c) of the Public Utility Code.¹⁸

While the OSBA argues that the Commission cannot approve a revenue allocation proposal which moves customer classes away from the indicated cost of service, neither *Lloyd* nor *Sabree* supports that proposition, nor does the OSBA provide a citation or quotation to the same in either Commonwealth Court decision. Revenue allocation must be based on “the hard economic facts of life and a complete and thorough knowledge and understanding of all the facts and circumstances which affect rates and services” and that “[w]hile cost to serve is important, other relevant factors may also be considered.”¹⁹ As identified by the Commission, the record clearly demonstrates that residential customers bear a disproportionate share of inter-class cross-subsidies under present rates and under all revenue allocation proposals other than that adopted by the Commission.²⁰ There is not, nor can there be, a cost of service basis to conclude that residential customers should continue to bear a disproportionate burden of existing inter-class subsidies.

The OSBA’s “parallel progress” proposal, whereby the RSS/RDS, SGS/DS-1, SGS/DS-2, and SDS/LGSS customer classes make parallel progress towards cost of service based rates finds no greater support in *Lloyd* than the OCA’s proposal. If anything, the OSBA’s proposal is inconsistent with *Lloyd* because it attempts to “justify allowing one class of customers to subsidize the cost of service for another class of customers over an

¹⁸ *Id.* at **22-24.

¹⁹ *Lloyd*, 904 A.2d at 1016 (quoting *Phila. Suburban Transp. Co. v. Pa. PUC*, 281 A.2d 179, 186 (Pa. Cmwlth. 1971).

²⁰ *December 9 Order* at 270, Table 24.

extended period of time” without offering an explanation as to how the disproportionate burden borne by residential customers is “going to be gradually alleviated.”²¹

By contrast, the OCA’s “parallel results” proposal produces the most equitable and cost of service-based revenue allocation whereby the RSS/RDS, SGS/DS-1, SGS/DS-2, and SDS/LGSS customer classes more equally bear the subsidies provided to the LDS/LGSS and FLEX classes equally. In adopting the OCA’s proposal, the Commission complied with the requirements of *Lloyd* by considering – within the context of the indicated cost of service of Columbia’s customer classes – how inter-class cross-subsidization should be borne by the subsidizing classes both reasonably and equitably. In other words, the Commission’s determination is within the cost of service paradigm considered by *Lloyd*, in comparison to the case before the Commonwealth Court in *Lloyd*, where the Court concluded that the Commission erred because it permitted gradualism to trump all other ratemaking considerations.²² The Commission plainly did not allow other ratemaking considerations to trump cost of service, or else the *December 9 Order* would have made reference to other ratemaking considerations when it adopted the OCA’s proposal.²³

As the Commission has frequently held, “our reconsideration of any prior Commission order is a narrow review that is judiciously granted. Absent the presentation of new and novel arguments not previously raised and considered, such a grant is

²¹ *Lloyd*, 904 A.2d at 1020.

²² *Id.*

²³ *December 9 Order* at 269-71.

inappropriate...the fact that we do not agree or adopt a party's position on a particular issue does not mean that we have overlooked the evidence in reaching its decision.”²⁴ The OSBA’s request for consideration fails to meet the *Duick* standard and its request for reconsideration should be denied.

B. The Commission should deny the OSBA’s Petition because the phrase “negligible amount” is not a nascent legal standard but is, instead, a factual description supported by record evidence.

The OSBA avers that the Commission’s description of the “amount of movement away from the cost to serve for rate classes SGS/DS-1, SGS/DS-2, and SDS/LGSS” as “negligible” creates a new legal standard which would become precedential if the Commission does not grant reconsideration.²⁵ The OSBA’s averment is baseless and should be rejected because the Commission’s description is a factual one, based on the record evidence before it, and not a new legal test.

Specifically, the Commission stated:

Although, under the OCA’s proposal, there is a *negligible amount* of movement away from the cost to serve for rate classes SGS/DS-1, SGS/DS-2, and SDS/LGSS, there is no basis for continuing to require the RSS/RDS class to pay for a greater share of the subsidy than other rate classes, as the OSBA’s proposal, providing for parallel progress towards cost-based rates for each of the four classes (RSS/RDS, SGS/DS-1, SGS/DS-2, and SDS/LGSS), would maintain.²⁶

The Commission’s description of movement away from cost to serve in determining revenue allocation as a “negligible amount,” as a result, is supported by record evidence as

²⁴ *Pa. PUC v. Verizon Pa., Inc.*, Docket Nos. R-00994697 *et al* (Order entered Aug. 29, 2001) at 8-9.

²⁵ Petition at ¶¶ 18-22, 31-33.

²⁶ *December 6 Order* at 270 (emphasis added).

a factual observation. The Commission included references to the record, and not to controlling law, when making this observation.²⁷ It is unclear how or why the Commission would seek to determine whether movement towards or away from cost to serve when allocating a revenue increase among customer classes as a “negligible amount” is *per se* permissible as a matter of law, when whether revenue allocation moves customer classes’ rates towards or away from cost of service is a pure question of fact. If the *December 9 Order* were read to create such a test, it would create absurd results.

Furthermore, the Commission’s use of the phrase “negligible amount” is not necessary to reach its ultimate determination to adopt the OCA’s proposed revenue allocation. The Commission’s regulations provide:

Statements contained in formal opinions of the Commission or in decisions of a presiding officer which are not necessary in resolving the case... are only considered as aids to the public, do not have the force and effect of law or legal determinations, and are not binding upon the Commonwealth or the Commission.²⁸

As described *supra*, the Commission’s determination is primarily based on the diminution of existing, disproportionately borne inter-class cross-subsidization.²⁹ The “negligible amount” descriptor does not apply to the basis for the Commission’s ultimate determination and, if removed from the *December 9 Order*, would not change the resolution of the issue of revenue allocation. As a result, the Commission’s use of the phrase “negligible amount”

²⁷ *December 9 Order* at 270-71 (citing OCA St. 4 at 11; Columbia Exh. 111, Sch. 2 at 2, 3, 7; OSBA St. 1 at 14).

²⁸ 52 Pa. Code § 1.96.

²⁹ *December 9 Order* at 270.

is not necessary to resolve the case and is properly treated as dictum, holding no precedential value and belying the OSBA's challenge to the *December 9 Order*.³⁰

Therefore, the OSBA's averment that the Commission created a new legal standard when it described the "amount of movement away from the cost to serve" as "negligible" is belied by the plain language of the *December 9 Order* and should be rejected as baseless and producing absurd results. As a result, the Petition should be denied.

³⁰ See N. York Cnty. Sch. Dist. v. Dover Area Sch. Dist., 2025 Pa. Commw. LEXIS 174, **25-26 (Pa. Cmwlth. Oct. 8, 2025).

III. CONCLUSION

The OSBA's Petition for Reconsideration is an attempt to relitigate the arguments raised by the OSBA in its testimony and Briefs, and Exceptions. A petition for reconsideration is not a second bite at the apple. The OSBA's Petition should be denied because it fails to meet the *Duick* standard. Therefore, because the OSBA's arguments why it should receive the relief requested are without merit, the OCA respectfully requests that the Commission deny the Petition.

Respectfully submitted,

/s/ Jacob Guthrie

Jacob Guthrie
Assistant Consumer Advocate
PA Attorney I.D. # 334367
jguthrie@paoca.org

Christy M. Appleby
Senior Assistant Consumer Advocate
PA Attorney I.D. # 85824
CAppleby@paoca.org

Harrison W. Breitman
Senior Assistant Consumer Advocate
PA Attorney I.D. # 320580
HBreitman@paoca.org

Counsel for:
Darryl A. Lawrence
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: December 30, 2025