**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

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|  | Public Meeting held August 15, 2013 |
| Commissioners Present:  Robert F. Powelson, Chairman  John F. Coleman, Jr., Vice Chairman  Wayne E. Gardner  James H. Cawley  Pamela A. Witmer |  |
| Donald Rinald | C-2012-2292780 |
| v. |  |
| Columbia Gas of Pennsylvania, Inc., and Direct Energy Services, LLC |  |

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of Donald Rinald (Complainant) filed on February 12, 2013, to the Initial Decision of Administrative Law Judge (ALJ) Susan D. Colwell, which was issued on February 1, 2013, in the above-captioned proceeding. Replies to Exceptions were filed by Columbia Gas of Pennsylvania, Inc. (Columbia) and Direct Energy Services, LLC (Direct Energy) (collectively, Respondents) on February 28, 2013, and March 4, 2013, respectively. For the reasons stated below, we will deny the Complainant’s Exceptions and adopt the ALJ’s Initial Decision, as modified herein.

**History of the Proceeding**

On March 5, 2012, the Complainant filed a Formal Complaint (Complaint) against Columbia, raising a number of issues with regard to his February 14, 2012 gas bill, which reflected a change from volumetric pricing to therm pricing. Specifically, the Complainant asserted that “the structure of this bill mathematically and legally does not match the advertising.” The Complainant further expressed his belief that, by using therm pricing, Columbia violated the contract he had with Direct Energy, his natural gas supplier (NGS). According to the Complainant, the use of therm pricing resulted in Columbia retaining eleven percent of funds that were meant to be provided to Direct Energy, and also resulted in an eleven percent increase in the price of gas he received from Direct Energy. Complaint at 7-8. The Complaint also alleged that “this fact puts to question other charges listed as ‘pass throughs’ for distribution service.” *Id*. at 7. The Complainant requested a complete detailing of the sources of all charges itemized on the bill, and also requested to see the Commission’s documents that form the basis for Columbia’s therm billing calculation. *Id*. at 7-8.

On March 30, 2012, Columbia filed an Answer to Formal Complaint (Columbia Answer), in which it denied that there were incorrect charges on the Complainant’s bill, and asserted that the Complainant misinterpreted the calculations relating to its therm pricing. Columbia averred that the Complainant had been provided with explanatory material regarding therm billing, that copies of the applicable tariffs are available on Columbia’s and the Commission’s websites, and that copies of all applicable Commission Orders are available on the Commission’s website. Columbia Answer at 1. Columbia also denied that it had planned to retain eleven percent of funds that were meant for Direct Energy. *Id*.

On July 12, 2012, Columbia filed a Motion to join Direct Energy as an indispensable party to the Complaint, asserting, *inter alia*, that the Complainant’s allegations of improper charges relate to Direct Energy charges, and that Direct Energy apparently had not adjusted its rates to reflect the new therm billing methodology. By Order dated July 27, 2012, ALJ Colwell granted Columbia’s Motion.

On August 7 2012, Direct Energy filed a Motion for Extension of Time to File Responsive Documents to the Formal Complaint and for Continuance of Scheduled Prehearing Conference. By Order dated August 9, 2012, the ALJ granted Direct Energy’s Motion.

On September 17, 2012, Direct Energy filed an Answer and New Matter of Direct Energy Services, LLC to the Formal Complaint (Direct Energy Answer), in which it, *inter alia*, admitted that a billing error had occurred in February and March 2012, relating to commodity charges to the Complainant, and stated that Direct Energy was in the process of issuing a reimbursement check to the Complainant. Direct Energy Answer at 2. Direct Energy also averred that the Complainant was receiving service from Direct Energy under a renewal contract that began in May 2012, and that, to the best of Direct Energy’s knowledge, no billing errors related to the commodity provided to the Complainant occurred in May 2012, or since May 2012. *Id*. at 3.

On December 13, 2012, a telephonic hearing was convened on this matter before ALJ Colwell. The Complainant appeared *pro se,* and testified on his own behalf. Columbia was represented by counsel, presented the testimony of two witnesses, and introduced six exhibits, all of which were admitted into the record. Direct Energy was represented by counsel, presented the testimony of one witness, and introduced two exhibits, both of which were admitted into the record. The hearing generated a transcript of eighty-five pages. The record was closed on January 16, 2013.

On February 1, 2013, the Commission issued the Initial Decision of ALJ Colwell, which dismissed the Complaint. I.D. at 14, 17. As noted, *supra*, the Complainant filed Exceptions to the Initial Decision on February 12, 2013. Replies to the Complainant’s Exceptions were filed by Columbia on February 28, 2013, and by Direct Energy on March 4, 2013.

**Discussion**

**Legal Standards**

As the proponent of a rule or order, the Complainant in this proceeding bears the burden of proof pursuant to Section 332(a) of the Public Utility Code (Code), 66 Pa. C.S. § 332(a). To establish a sufficient case and satisfy the burden of proof, the Complainant must show that the Respondents are responsible or accountable for the problem described in the Complaint. *Patterson v. The Bell Telephone Company of Pennsylvania*, 72 Pa. P.U.C. 196 (1990). Such a showing must be by a preponderance of the evidence. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied,* 529 Pa. 654, 602 A.2d 863 (1992). That is, the Complainant’s evidence must be more convincing, by even the smallest amount, than that presented by the Respondents. *Se-Ling Hosiery, Inc. v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950). Additionally, this Commission’s decision must be supported by substantial evidence in the record. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. Co. v. Pa. PUC,* 489 Pa. 109, 413 A.2d 1037 (1980).

Upon the presentation by the Complainant of evidence sufficient to initially satisfy the burden of proof, the burden of going forward with the evidence to rebut the evidence of the Complainant shifts to the Respondents. If the evidence presented by the Respondents is of co-equal value or “weight,” the burden of proof has not been satisfied. The Complainant now has to provide some additional evidence to rebut that of the Respondents. [*Burleson v. Pa. PUC,* 443 A.2d 1373 (Pa. Cmwlth. 1982), *aff’d,* 501 Pa. 433, 461 A.2d 1234 (1983).](http://www.lexis.com/research/buttonTFLink?_m=0d7e78528297490763e78babd487bc42&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b2006%20Pa.%20PUC%20LEXIS%20102%5d%5d%3e%3c%2fcite%3e&_butType=3&_butStat=2&_butNum=16&_butInline=1&_butinfo=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b66%20Pa.%20Commw.%20282%5d%5d%3e%3c%2fcite%3e&_fmtstr=FULL&docnum=9&_startdoc=1&wchp=dGLzVzz-zSkAz&_md5=44d0f4cf51bc1159652e85695542a09d)

While the burden of going forward with the evidence may shift back and forth during a proceeding, the burden of proof never shifts. The burden of proof always remains on the party seeking affirmative relief from the Commission. *Milkie v. Pa. PUC,* 768 A.2d 1217 (Pa. Cmwlth. 2001).

ALJ Colwell made twenty-nine Findings of Fact and reached eleven Conclusions of Law. I.D. at 3-6, 14-17. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

Before addressing the Exceptions, we note that any issue or Exception that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. [Consolidated Rail Corp. v. Pa. PUC, 625 A.2d 741 (Pa. Cmwlth. 1993);](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=5&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b625%20A.2d%20741%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=ad2b02d95c2a9216e83b92a3570d4785) *also* see, generally, [University of Pennsylvania v. Pa. PUC, 485 A.2d 1217 (Pa. Cmwlth. 1984).](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=6&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b485%20A.2d%201217%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=9b1cc8319afd12440738bb82d74455ef)

**Positions of the Parties**

The issue raised by the Complainant in this proceeding relates to Columbia’s recent change in the manner in which it bills its customers for natural gas

consumption.[[1]](#footnote-1) Specifically, beginning with bills issued after January 31, 2012, Columbia switched from billing gas usage on a volumetric basis, measured in Ccf,[[2]](#footnote-2) to billing gas usage on a heating value basis, measured in therms.[[3]](#footnote-3) Under this method of billing, the volume of gas consumed by a customer, as measured by the customer’s meter and expressed in Ccf, is multiplied by a factor representing the heating value of the gas, expressed in therms per Ccf. This calculation results in the total number of therms consumed for the billing month. This number is then multiplied by Columbia’s distribution usage rate, expressed in dollars per therm, to arrive at the customer’s total usage charge for gas consumed. Columbia Exh. Nos. CG-4 and CG-6.

Columbia explained that the heating value of the gas used to determine the therm multiplier for each monthly bill is measured by a third party in fifteen-minute intervals at the receipt points for each of its eight separate, non-interconnected market areas. Columbia then uses a monthly weighted average of these measurements to develop the therm multiplier used to calculate customers’ bills for each market area. Tr. at 47-50.

The Complainant objected to Columbia’s use of therm billing, asserting that the derivation of the therm multiplier used in his bills has not been sufficiently explained or properly documented. The Complainant apparently believed that the use of therm billing resulted in unexplained increases to his bills. *Id*. at 7-10. The Complainant also questioned the accuracy of the therm multiplier, suggesting that the heating value of the gas entering his home may be different from the value measured at the receipt points of Columbia’s distribution system. The Complainant expressed concern that Columbia did not account for this difference in developing the therm multiplier used in his bills. *Id*. at 14, 22-23, 25-27.

The Complainant also averred that, by switching from volumetric billing to therm billing, Columbia violated the contract he had with his NGS, Direct Energy, during the last two months of that contract. *Id*. at 10-11. The Complainant expressed concern that, because Columbia changed the basis for the calculation of his gas bills, he could no longer understand the contract he had with Direct Energy. *Id*. at 17-18. Moreover, the Complainant argued that the use of the therm multiplier in his gas bills diminishes his ability to accurately compare rates from different suppliers, because it leads to results that the Complainant believes have not been properly explained. The Complainant appeared to question whether the therm multiplier used by Columbia can properly be applied to gas he might receive from other suppliers, and whether that allows for a meaningful comparison among different suppliers. *Id*. at 58-63.

In response to the Complainant’s assertions, Columbia’s witness stated that he had previously met with the Complainant and explained to him how the heating value of the gas was determined, and how the therm multiplier was derived. The witness also explained that, while the therm multiplier appears to increase the volume of gas to which Columbia’s rates are applied, the rates themselves were decreased in Columbia’s 2010 rate case, so that the net effect was a four-percent increase to the Complainant.[[4]](#footnote-4) *Id*. at 46‑48. Columbia averred that the Complainant had been given ample explanation of its therm billing methodology, both before and during the hearing, and that nothing else could be provided, short of furnishing the Complainant with a voluminous amount of material containing the actual calculation of the weighted average heating value for the gas supplied to his market area. *Id*. at 78-82.

In response to the Complainant’s concern regarding the effect of therm billing on his ability to accurately compare prices among different gas suppliers, the Columbia witness stated his understanding that a supplier is required to quote prices in whatever unit of measure the utility uses for billing. Thus, if Columbia bills for gas usage in therms, the suppliers in Columbia’s service area must quote prices in therms, according to the witness. *Id*. at 56. The witness also expressed his belief that the Consumer Advocate’s website should list the price-to-compare for Columbia and all other suppliers in the same unit of measurement. *Id*. at 59-60.

For its part, Direct Energy explained that it had supplied natural gas to the Complainant pursuant to a twelve-month, fixed-price contract that ended in March 2012. After the contract ended, the Complainant continued to receive gas from Direct Energy on a month-to-month basis,[[5]](#footnote-5) and paid Direct Energy’s then-current direct-market rate in April 2012.[[6]](#footnote-6) The Complainant then entered into a new, twelve-month, fixed-price contract with Direct Energy in May 2012, which the Complainant subsequently canceled without penalty, effective November 1, 2012. *Id*. at 70.

Columbia billed the Complainant for the gas supplied by Direct Energy, in accordance with Columbia’s consolidated billing option. *Id*. at 68-69. However, when Columbia converted from volumetric billing to therm billing, Direct Energy did not immediately adjust its rates to reflect the new therm billing methodology. Direct Energy’s failure to make this adjustment resulted in overcharges to fifty-two residential customers in Columbia’s service area, including the Complainant. *Id*. at 72. However, Direct Energy subsequently corrected the problem, and issued refund checks to the affected customers. The amount of the refund received by the Complainant was $29.54. *Id*. at 72-73; Direct Energy Exh. No. 2.

Direct Energy’s witness asserted that, with the correction of Direct Energy’s billing format to match that of Columbia, and with the issuing of the refund check to the Complainant, the Complaint against Direct Energy had been satisfied. The witness further opined that the Complainant’s other allegations do not show a violation of the Commission’s Rules, Regulations or Orders. Therefore, the witness stated that the Complaint against Direct Energy should be dismissed. *Id*. at 73. The Complainant subsequently agreed that Direct Energy corrected the error, and concluded that he had no further issue with regard to Direct Energy. *Id*. at 82-83.

**ALJ’s Initial Decision**

In her Initial Decision, ALJ Colwell found that Columbia adequately explained the operation of, and rationale for, its therm billing methodology to the Complainant, both during and prior to the hearing. I.D. at 10-11, 13. The ALJ further found that Columbia clearly explained the authority by which it adopted such a methodology by citing the Commission’s October 14, 2011 Opinion and Order approving Columbia’s conversion to therm billing in its 2010 base rate proceeding at Docket No. R‑2010-2215623. *Id*. at 12-13.

With regard to the Complainant’s concern that Columbia’s change to therm billing will hinder his ability to accurately compare Columbia’s price for natural gas with that of competitive suppliers, the ALJ cited the following Commission Regulation:

**§ 62.77. Marketing/sales activities.**

(a) An NGS's marketed prices shall reflect disclosure statement prices and billed prices and shall be presented in the standard pricing unit of the [Natural Gas Distribution Company].

52 Pa. Code § 62.77(a). Thus, the ALJ concluded that the NGS’s price should be stated in the same pricing unit as Columbia’s Price to Compare, providing the Complainant with optimal opportunity to compare the pricing of NGSs operating in Columbia’s service territory. I.D. at 12-13. In addition, the ALJ noted that, on January 17, 2013, the website operated by the Office of Consumer Advocate and used for comparing the prices of NGSs in Columbia’s service territory showed each NGS’s price in therms for that territory. *Id*. at 13, 14.

As for Direct Energy’s billing error, the ALJ noted that Direct Energy expressed its regrets for any inconvenience caused by the error, and that it reimbursed the Complainant for the overcharge resulting from the error. The ALJ stated that, “[a]s Direct Energy has admitted and corrected its error, there is no evidence to support a finding of any misconduct against it.” *Id*.

The ALJ concluded that there is no evidence in this case to support a finding that either Columbia or Direct Energy violated a Statute, Regulation, or Order of the Commission. Rather, the ALJ stated that the evidence shows that both Columbia and Direct Energy expended considerable effort to address the Complainant’s confusion with regard to Columbia’s conversion to therm billing, both prior to and during the hearing, and that their efforts were commendable. *Id*. at 14. Accordingly, the ALJ dismissed the Complaint. *Id*. at 14, 17.

**Complainant’s Exceptions**

In his Exceptions, the Complainant continues to argue that Columbia’s therm billing methodology is unfair and inaccurate, and that this methodology must be corrected, or Columbia must return to using its former billing system. Exc. at 1. Specifically, the Complainant identifies three “significant flaws” contained in the therm billing methodology, summarized as follows:

1. Under therm billing, all customers are erroneously charged for all of the gas that enters Columbia’s distribution system, “as though it were delivered to their house for use.”
2. Columbia conducts its calculations to determine the therm multiplier for each market area “in secret,” and does not take into account the physical condition of the distribution system in the individual areas in its calculations. Thus, the accuracy of the calculations is suspect. Also, Columbia’s requested rate increase[[7]](#footnote-7) to replace defective piping “has been partly prepaid by the way the new ‘Therm’ billing is calculated.”
3. Periodic checks of the gas in Columbia’s distribution system must be conducted at points other than those now used to measure the heating value of the gas, in order to determine whether the therm multiplier used in billing is accurate. The PUC should witness or conduct these tests in order to protect consumers from

the economic consequences of a billing system that has not been proven to be accurate.

*Id*. at 2.

In addition, the Complainant challenges or comments on four of the ALJ’s Findings of Fact. Specifically, in Finding of Fact No. 12, the ALJ found:

12. The conversion to therm billing is a billing conversion process, not a rate increase. Prior to January 31, 2012, customers were billed based on the volume of gas consumed per month, and after January 31, 2012, customers would be billed based on the energy consumed per month, or therms (Thm). Columbia Ex. 6.

I.D. at 4. The Complainant contends that this finding represents an assertion by Columbia for which no evidence was presented. The Complainant states that “[i]n fact, every Therm multiplier appearing in every bill has been greater than 1.0 and has claimed significant figures unsupported by the accuracy of the measuring procedures.” Exc. at 1.

In Finding of Fact No. 14, the ALJ found:

14. Columbia's service territory is divided into eight separate market areas which do not interconnect. Tr. 48.

I.D. at 4. The Complainant opines that this finding “is interesting,” but asserts that none of the bills issued by Columbia indicated in which service areas the consumers were located, nor did they indicate any relationship between the therm multiplier and the service area. Exc. at 1.

In Finding of Fact Nos. 27 and 28, the ALJ found:

27. Direct Energy admits that it was at fault for a billing error that occurred for 52 customers when Columbia switched to therm billing. Tr. 72.

28. The amount of the error to Complainant's bill was $29.56, which was refunded to Complainant. Tr. 72-73.

I.D. at 5-6. The Complainant asserts that these findings “are consistent with all other pricing by Direct Energy and Columbia in that the nature of the error and the calculations to correct are not divulged.” Exc. at 1.

Finally, the Complainant submits that the ALJ’s Conclusions of Law should be revised to state that it is within the authority of the PUC to declare that Columbia’s heating value measurements do not improve the accuracy of its therm billing system, and that its bills do not provide sufficient information to identify the area assigned to each customer, or the data used to determine the therm multiplier. *Id*. at 2. The Complainant also requests that the ALJ’s Ordering Paragraphs be revised to include a requirement that “designated technically qualified members of the PUC” be assigned to evaluate the accuracy of therm billing, the need for additional sampling of the gas in each customer area, and “whether the maintenance related costs have been redistributed correctly by the new monthly billing system.” *Id*. at 3. In addition, the Complainant requests that the information provided on Columbia’s bills be reviewed to ensure that it is correct and “consistent with an informed purchase decision from the available gas suppliers.” *Id*.

**Columbia’s Replies to Complainant’s Exceptions**

In its Replies to the Complainant’s Exceptions, Columbia asserts that the Complainant raises no new issues, but simply continues to argue that Columbia’s therm billing procedure “does not meet Complainant’s amorphous and subjective requirements for billing customers.” Columbia R. Exc. at 1. Columbia contends that the Complainant continues to ignore the extensive record evidence regarding the operation of the therm billing process, and the extensive explanatory material provided to the Complainant. *Id*. Columbia further argues that the Complainant “does not understand, or is unwilling to accept, the need for and the fairness of a reasonable basis of billing based on measured consumption and thermal value and is arguing for a wholly unrealistic, prohibitively expensive and unnecessary billing system for which he and other customers surely would not be willing to pay.” *Id*. at 2.

Columbia also disputes the assertions made by the Complainant with regard to the ALJ’s Findings of Fact. Specifically, with respect to Finding of Fact No. 12, Columbia contends that this is a factual statement by the ALJ that was supported and explained in its Exhibit No. 6, as well as by its witness in this proceeding. *Id*. at 1-2. With respect to Finding of Fact No. 14, Columbia argues that the Complainant’s concern regarding the lack of certain information on its bills was “extensively discussed” by its witness, and that the Complainant’s assertion in this regard is incorrect. *Id*. at 2.

Columbia also addresses each of the alleged “significant flaws” of its therm billing methodology enumerated by the Complainant in his Exceptions. In summary, Columbia contends that the Complainant provides no record support for his assertions, does not understand principles of gas distribution system operations or ratemaking, and ignores the explanations provided by Columbia’s witness with respect to the rationale behind its therm billing methodology. *Id*. at 2-3.

With regard to the Complainant’s request that the ALJ’s Conclusions of Law and Ordering Paragraph’s be revised to reflect his concerns, Columbia responds as follows:

. . . Columbia Gas again reiterates that the methodology for thermal billing about which Complainant is concerned was considered by the Commission in a fully litigated rate case proceeding at Docket No. R-2010-2215623, *et al*, that Complainant was provided with notice of the proceeding and that Complainant, having voluntarily failed to participate in the proceeding, should not be heard to complain regarding the thermal billing methodology. Therefore, Complainant’s concerns have been fully addressed, both in the 2010 rate case proceeding and in this proceeding, and provisions are in place to ensure that Complainant is correctly billed for accurately measured consumption in accordance with duly filed and approved tariff rates.

*Id*. at 3.

Columbia concludes that the Complainant’s Exceptions do not provide a basis for modifying the ALJ’s Initial Decision. Columbia avers that the Complainant “refuses to accept the objective evidence that thermal billing is a reasonable and fair standard for billing customers,” and that he provided no objective evidence to the contrary. Therefore, Columbia requests that the Complainant’s Exceptions be denied, and that the Commission affirm the Initial Decision dismissing the Complaint. *Id*.

**Direct Energy’s Replies to Complainant’s Exceptions**

In its Replies to the Complainant’s Exceptions, Direct Energy takes issue with the Complainant’s comments regarding the ALJ’s Findings of Fact Nos. 27 and 28, which relate to Direct Energy’s admission of a billing error, and its subsequent refund to the Complainant. As noted, *supra*, the Complainant asserted that the ALJ’s findings in this regard “are consistent with all other pricing by Direct Energy and Columbia in that the nature of the error and the calculations to correct are not divulged.” Exc. at 1. Direct Energy states that it assumes the Complainant mentioned these two Findings of Fact because the prices charged by Direct Energy were expressed in therms, and the Complainant is opposed to therm billing. However, Direct Energy contends that the Complainant’s opposition to therm billing does not negate the fact that Direct Energy corrected its billing error and provided a refund to the Complainant, that the Complainant did not challenge the correction or the refund at the hearing, and that the Complainant has not shown that he is entitled to any additional billing adjustments from Direct Energy. Direct Energy R. Exc. at 4. Direct Energy asserts that it is not unreasonable for an NGS to correct a billing error, and that it has not otherwise violated the Public Utility Code, or any Commission Regulation or Order. *Id*. at 5. Therefore, Direct Energy requests that the Commission deny the Complainant’s Exceptions, and that it issue a decision consistent with the ALJ’s Initial Decision. *Id*.

**Disposition**

Upon consideration of the record evidence in this proceeding, we will dismiss the Complaint. As Columbia points out, its therm billing methodology was approved by this Commission in Columbia’s base rate proceeding at Docket No. R‑2010‑2215623, *et al.* Moreover, the evidence in this proceeding clearly shows that Columbia made several attempts to thoroughly explain to the Complainant how this methodology works, both prior to and during the hearing.

The Complainant appears to be confused primarily with regard to the nature of the therm multiplier, and objects to the fact that he does not have access to the precise calculations used to develop this number. However, as Columbia explained, the therm multiplier is simply a factor used to convert customers’ usage as measured in Ccf, to usage expressed in therms. The therm multiplier represents the weighted average of the periodic measurements of the heating value of the gas that enters Columbia’s distribution system in each of its separate, non-interconnected market areas. Since these measurements are conducted every fifteen minutes, the amount of data gathered for each billing month would be extensive, and it would not be feasible to display the calculations used to determine the weighted average heating value on each customer’s bill. Therefore, these individual calculations must necessarily be “hidden” from customers. However, no evidence has been introduced in this proceeding to suggest that the calculations used to develop the therm multiplier have been made in error, or that Columbia has deliberately attempted to deceive the Complainant in any way with regard to how the therm multiplier is determined.

The Complainant also appears to believe that the heating value of the gas that enters Columbia’s system may not be the same as that of the gas he actually uses at his home. Rather, the Complainant suggests that the heating value of gas may be different for any given customer at any given point of Columbia’s system. Therefore, he believes the therm multiplier that appears on his bills is suspect. However, the Complainant provided no evidence to support this belief, and provided no explanation of how Columbia would reasonably account for this alleged variation in gas heating values among its customers.

With regard to the Complainant’s contention that Columbia’s change to therm billing violated his contract with Direct Energy, we find no evidence to suggest that this was the case. Although the terms of the Complainant’s original contract with Direct Energy would have included a price for gas expressed in dollars per Ccf, we do not find that the switch to therm billing represented a material change to the contract, as it involved only a change in the units used to express the price of the gas, a change that Direct Energy could easily adapt to its then-existing contract with the Complainant. Moreover, while Direct Energy did not immediately adjust its rates to reflect the change to therm billing, it did eventually correct this error, and provided a refund of the resulting overbilling to the Complainant, with which the Complainant was satisfied.

Finally, with regard to the Complainant’s concern that therm billing diminishes his ability to accurately compare rates from different suppliers, we find this concern to be unfounded. While the essence of the Complainant’s concern in this regard is not entirely clear, we note that the Complainant appeared to question whether the therm multiplier used by Columbia can properly be applied to gas he might receive from other suppliers. In other words, the Complainant appeared to suggest that the heating value of the gas obtained by Columbia for its sales customers may not be the same as that provided by a competitive supplier and, therefore, Columbia’s application of a single therm multiplier to all the gas in its system may not be appropriate. However, Columbia’s witness explained that all the gas that enters its system is intermixed, and that there is no way to determine the origin or destination of individual gas molecules. Tr. at 53, 66. It is not likely that one-hundred percent of the gas that an NGS delivers to Columbia’s system on behalf of the NGS’s customers would be consumed exclusively by those customers. Rather, all the gas that enters Columbia’s system is intermixed, regardless of the individual sources of upstream supply. Thus, the measurements of the heating value of the gas that enters Columbia’s system apply to the overall mix of gas, and it is not unreasonable to use the resulting therm multiplier to calculate the bills of all customers who receive gas on Columbia’s system, regardless of the individual suppliers from whom those customers may purchase their gas. Therefore, there is no reason to conclude that customers cannot accurately compare the rates of alternative suppliers when those rates are expressed in dollars per therm, rather than dollars per Ccf. Furthermore, as the ALJ noted, our Regulation at 52 Pa. Code § 62.77(a) requires that an NGS’s marketed prices must be presented in the standard pricing unit of the natural gas distribution company. Therefore, the Complainant need not be concerned that Columbia’s use of therm billing diminishes his ability to accurately compare rates from different suppliers.

Accordingly, we find that the Complainant has failed to sustain his burden of proving that either Columbia or Direct Energy violated any Statute, or any Regulation or Order of the Commission, by implementing Columbia’s therm billing methodology. Therefore, we will deny the Complainant’s Exceptions and dismiss the Complaint.

**Conclusion**

In light of the above, we shall: (1) deny the Complainant’s Exceptions; (2) adopt the ALJ’s Initial Decision, consistent with this Opinion and Order, including the modifications to the Findings of Fact as set forth herein; and (3) dismiss the Complaint; **THEREFORE,**

**IT IS ORDERED:**

1. That the Exceptions of Donald Rinald, filed on February 12, 2013, to the Initial Decision of Administrative Law Judge Susan D. Colwell, are denied.
2. That the Initial Decision of Administrative Law Judge Susan D. Colwell, issued February 1, 2013, is adopted, consistent with this Opinion and Order, including the modifications to the Findings of Fact as set forth in this Opinion and Order.
3. That the Formal Complaint against Columbia Gas of Pennsylvania, Inc., filed by Donald Rinald on March 5, 2012, is dismissed.
4. That the Formal Complaint against Direct Energy Services, LLC, filed by Donald Rinald on March 5, 2012, is dismissed.
5. That the record at Docket No. C-2012-2292780 be marked closed.

**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: August 15, 2013

ORDER ENTERED: August 15, 2013

1. This change was made pursuant to a Joint Petition for Partial Settlement approved by the Commission in Columbia’s 2010 base rate proceeding.  *Pennsylvania Public Utility Commission, et al. v. Columbia Gas of Pennsylvania*, Docket No. R‑2010‑2215623, *et al*. (Opinion and Order entered October 14, 2011). [↑](#footnote-ref-1)
2. Ccf stands for 100 cubic feet, a standard volumetric measure of gas consumption. Columbia Exh. No. CG-5. [↑](#footnote-ref-2)
3. A therm is a measure of energy or heat, and is equal to 100,000 British thermal units, or Btu. Columbia Exh. No. CG-5. [↑](#footnote-ref-3)
4. According to literature provided by Columbia to customers regarding the conversion to therm billing, customers who have consistently been receiving gas with higher energy content could expect to experience bill increases of four to five percent as a result of the conversion. Columbia Exh. No. CG-5. [↑](#footnote-ref-4)
5. In her Finding of Fact No. 23, the ALJ stated that the Complainant had a month-to-month contract with Direct Energy from March, 2011 to March 2012. I.D. at 5. However, testimony provided by Direct Energy’s witness reveals that the Complainant did not purchase gas from Direct Energy on a month-to-month basis until after the fixed-price contract ended in March 2012. Tr. at 70. Therefore, we will modify Finding of Fact No. 23 accordingly. [↑](#footnote-ref-5)
6. In her Finding of Fact No. 25, the ALJ indicated that the direct-market rate charged to the Complainant by Direct Energy in April 2012 was $0.529 per Ccf. I.D. at 5. However, the evidence provided by Direct Energy reveals that the rate charged in April 2012 was $0.799 per Ccf, and that the rate of $0.529 per Ccf did not become effective until May 2012. Tr. at 71; Direct Energy Exh. No. 2. Therefore, we will modify Finding of Fact No. 25 accordingly. [↑](#footnote-ref-6)
7. The Complainant does not identify the requested rate increase to which he refers. [↑](#footnote-ref-7)