NiSource

Andrew S. Tubbs
Senior Counsel
Legal Department

800 N. Third Street
Harrisburg, PA 17102
Office: 717.238.0684
astubbs@nisource.com

November 2, 2017

VIA ELECTRONIC FILING

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

Re: Columbia Gas of Pennsylvania, Inc.
Proposed Rulemaking: Natural Gas
Distribution Company Business Practices;
52 Pa. Code § 62.225
Docket No. L-2017-2619223

Dear Secretary Chiavetta:

Pursuant to the Advanced Notice of Proposed Rulemaking Order adopted August 31, 2017 by the Pennsylvania Public Utility Commission, enclosed please find the Comments of Columbia Gas of Pennsylvania, Inc. regarding the above captioned matter.

Should you have any questions, please do not hesitate to contact the undersigned at (717) 238-0463.

Very truly yours,

Andrew S. Tubbs

Andrew S. Tubbs

/kak
Enclosure

BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking: Natural Gas Distribution Company Business Practices; 52 Pa. Code § 62.225.	: : :	Docket No. L-2017-2619223

COMMENTS OF COLUMBIA GAS OF PENNSYLVANIA, INC.

I. INTRODUCTION

On August 31, 2017, the Pennsylvania Public Utility Commission ("Commission") entered an Advanced Notice of Proposed Rulemaking Tentative Order ("*Business Practice ANOPR*") at the above-captioned docket regarding potential changes to existing regulations addressing the release, assignment and transfer of capacity among Natural Gas Distribution Companies ("NGDCs") and Natural Gas Suppliers ("NGSs"). The Commission notes that the proposed regulatory changes stem from the Commission's Natural Gas Retail Markets Investigation ("RMI") and are intended to improve the competitive market by revising how capacity is assigned and addressing related issues including penalties and imbalance trading.

Columbia Gas of Pennsylvania, Inc. ("Columbia" or the "Company") was an active participant in the Commission's RMI, and appreciates the opportunity to provide comments on the proposed changes to the existing Commission's regulations.

II. BACKGROUND

Prior to addressing each of the proposed regulatory changes, Columbia would like to make several general observations about NGDCs and their operations. First, each

NGDC has its own unique portfolio of system characteristics, including such things as varying levels of on system and off system storage assets, differing amounts, sources and types of upstream pipeline capacity assets, local production, distribution configuration, etc. The characteristics of each NGDC's system configuration and current operations have developed over the last century in recognition of their individual characteristics and cannot be simply unwound. Therefore, while Columbia supports the RMI process and finding workable solutions to identified problems, there is no one solution that will be applicable to all NGDCs.

Indeed, each NGDC's Choice program was developed over time, based on the individual NGDCs system characteristics and negotiations with pertinent stakeholders. Columbia submits that substantial deference should be given to those provisions, which were the result of negotiated settlements between knowledgeable parties in prior proceedings. Further, to the extent an NGS identifies concerns with Columbia's or any NGDC's Choice program, the impacted parties can continue to work to address such concerns with the NGDC's system and Choice program serving as the framework for these discussions.

Columbia, like other similarly situated NGDCs, works with NGSs to address concerns about Columbia's system. For example, prior to the 2016-2017 winter period, Columbia implemented a notice in its electronic bulletin board to notify an NGS if its scheduled nomination for its Choice deliveries did not match its daily delivery requirement. This change allows NGSs to proceed with a scheduled nomination that does not comport with its daily delivery requirement, but only if the NGS affirmatively elects to proceed before the nomination is accepted. This simple step eliminates non-intentional nomination mistakes.

Second, as each NGDC bears responsibility for operating its system in a safe and reliable manner, including balancing its system daily through utilization of its assets, an NGDC must have assurances that the NGS will deliver gas to its Choice customers according to the program design requirements. That assurance exists when appropriate penalties exist for non-compliance with daily delivery requirements. Columbia's Choice program is specifically designed with the expectation of daily deliveries by Choice NGSs. Consequently, Columbia plans its least cost purchase activity for its purchased gas cost ("PGC") customers by taking expected Choice deliveries into consideration. Non-compliance charges were established to encourage the suppliers to abide by the provisions of the tariff. Therefore, Columbia is concerned with any proposal that would allow Choice NGSs to deviate from the delivery requirement, as such deviations place additional uncertainty on Columbia's purchasing plans and act to generally increase the costs of such purchases to the detriment of PGC customers.

Moreover, the softening of the non-compliance charges could also encourage financially beneficial NGS business decisions and jeopardize the integrity of Columbia's Choice program as well as the system as a whole to the detriment of the Company's PGC customers. NGDCs should not be required to create and support a framework that will facilitate opportunistic commodity trading to the potential detriment of its sales service customers. For example, if Choice NGSs under deliver on a normal winter day when customer requirements are being met, in part, by storage withdrawals, Columbia could be forced to purchase spot gas at a cost higher than the price paid for the storage gas in order to comply with contractual storage withdrawal obligations on the interstate pipeline. In this example, the Choice customer pays their NGS contractual rate while the PGC customers bear the higher costs for the incremental gas purchases. Conversely, on a summer day, if a Choice NGS over delivers, Columbia could be forced on short notice to cut back on scheduled purchases of low-cost gas in order to stay within storage injection limitations, once again causing increased costs to PGC customers.

Lastly, Columbia's Choice program has been designed such that it is easily manageable for Choice NGSs to serve their firm requirements customers and any failure to deliver deserves a penalty. To date, Columbia is unaware of any NGS that has identified an issue with the existing average day program design. As Columbia's system and Choice program are dependent upon the delivery each day, it is appropriate that a penalty be applicable each day that the specified delivery requirement is not met and the penalty should be sufficient enough to encourage appropriate behavior in the future. Moreover, Columbia notes that penalties are a rarity in relation to its Choice program. As noted in Columbia's comments during the RMI process, NGS compliance has been very close to 100% for Columbia's Choice program, indicating that the NGSs are able to meet their delivery requirements. Therefore, it is Columbia's position that its penalties are set at appropriate levels and with proper behavior as required under the tariff, no penalties would be incurred by the NGSs. With so few Choice penalties, it is unclear why a change to Columbia's existing tariffed penalty structure is needed.

Below are Columbia's specific comments on the proposals set forth in the Commission's *Business Practice ANOPR*.

III. COMMENTS

A. The RMI Process

Prior to providing specific comments on the proposals set forth in the Commission's *Business Practice ANOPR*, Columbia would like to provide some brief comments on the RMI process. As detailed in its order, the Commission's investigation into the retail natural gas market addressed a number of issues. The format for these discussions was a mix of conference calls, informal discussions and comments submitted directly to the staff of the Office of Competitive Market Oversight ("OCMO"), but not circulated to the other parties.

The conference calls resulted in a high level review of the topics, but did not address specific proposals from the OCMO Staff or other parties. Following the conference calls, the OCMO Staff would release specific proposals on the topics covered during the conference calls for informal comment by the parties. In responding to these proposals, Columbia identified that while some of the issues addressed in the OCMO proposals were touched upon on the conference calls, the underlying assumptions and the detailed topics contained in the OCMO Staff proposals were not vetted by the parties in an open forum. Interested parties then submitted informal comments directly to OCMO Staff, but the comments were not served on the other parties. Unfortunately, the parties to the RMI, did not benefit from the comments of other parties. Thus, Columbia and the other parties were unable to gain perspective about the views of others or find common ground among the parties.

Further, as Columbia noted throughout the RMI process, the topics covered during the process were complex, and in order to fully explore and evaluate these proposals, Columbia recommended that an in-person meeting of all interested parties be held to discuss these proposals more thoroughly. The Company's rationale for this request was based on the fact that many of the proposals, if adopted, would represent a substantial departure from current practices, require a significant investment to modify existing processes, and could result in reduced reliability of service. Therefore, an in-person meeting would enable interested parties to gain a better understanding of the rationale behind the proposals, and the potential ramifications of certain proposals, should they be adopted by the Commission.

The Company has prepared comments to the proposed changes contained in the Commission's *Business Practice ANOPR*. As addressed below, Columbia has identified a number of concerns with the proposals. However, in order to fully explore and evaluate these proposals, Columbia continues to recommend that the Commission convene an in-person meeting of all interested parties to discuss the proposed regulatory changes detailed in the *Business Practice ANOPR*.

B. Uniform Capacity Costs For All Customers

1. Commission Proposal

As noted by the Commission, capacity is generally released to NGSs to serve customers participating in the retail competitive natural gas market. In most service territories, an NGDC's capacity releases for shopping customers are in turn paid for by the NGS providing service. The Commission proposes that NGDCs implement a program like that implemented by Peoples Natural Gas Company LLC, in which the capacity is released to the NGS at zero cost with the cost of the released capacity billed directly to all participating Choice customers at the same rate as billed to sales customers.

The Commission states that applying Peoples' capacity payment mechanism statewide creates immediate and potentially lasting benefits for competition, including non-shopping customers. To accomplish this standardization the Commission proposes the following change to its regulations:

§ 62.225. Release, assignment or transfer of capacity.

> (a) An NGDC holding contracts for firm storage or transportation capacity, including gas supply contracts with Commonwealth producers, or a city natural gas distribution operation, may release, assign or transfer the capacity or Commonwealth supply, in whole or in part, associated with those contracts to licensed NGSs or large commercial or industrial customers on its system.
>
> * * *
>
> (3) A release, assignment or transfer **[must be based upon the applicable contract rate for]** **of** capacity or Pennsylvania supply **[and]** **shall** be subject to applicable contractual arrangements and tariffs. **Capacity or Pennsylvania supply costs shall be charged to all customers as a non-bypassable charge based on the average contract rate for those services.**

2. Columbia's Response

At the outset, Columbia notes that this proposal was not specifically addressed during the RMI process. While Columbia understands that a standardized capacity payment mechanism might provide some benefit for competition, Columbia does not support this proposal for several reasons. First, through its 1307(f) process, Columbia already accomplishes what Peoples' standardized approach achieves with regard to uniform capacity costs. Second, while Columbia could release capacity at zero cost, doing so would bring greater risk to Columbia's system as NGSs would have the ability to "game the system" by choosing to serve customers seasonally, thereby creating recovery issues for sales customers. Third, releasing capacity at zero cost and direct billing Choice customers would shift certain storage-related commodity costs, appropriately charged to Choice customers today under Columbia's average day program, to sales customers. Fourth, Columbia releases capacity to Choice NGSs on a recallable basis, however Columbia is not required to take the capacity back from the NGS if that capacity need decreases. Finally, Columbia is not aware of any supplier/marketer requesting that Columbia's program mimic Peoples' system. Consequently, for the reasons detailed below, Columbia does not support the codification of Peoples' capacity mechanism into existing Commission regulations.

Through its existing 1307(f) process, Columbia already accomplishes uniform capacity costs. As set forth in its current tariff[1], Columbia calculates a Capacity Assignment Factor ("CAF"), which is credited to Choice customers. Columbia charges all Choice-eligible customers the same Purchased Gas Demand Cost ("PGDC") and then credits to shopping customers via the CAF, the cost of capacity assigned to the NGSs adjusted by the commodity costs Columbia incurs for storage activity related to the shopping customers. The storage commodity cost adjustment is necessary as under Columbia's average day program NGSs are required to deliver a constant volume each day of the year.[2] Thus, there is a need to include the utilization costs of storage to balance seasonal over and under-deliveries that are integral features of the average day design. This rate design assures that Columbia calculates the demand charges identically for sales service and Choice customers and then gives credit to the Choice customers for the capacity that is assigned to and paid for by the Choice NGSs. This also assures that there is no cross subsidization of storage commodity costs.

[1] Columbia Gas of Pennsylvania, Inc. Tariff Gas – Pa. P.U. C. No 9, Supplement No. 263, Sixty-fifth Revised page No. 154.

[2] Columbia's Choice program is an average day program for residential and small commercial customers using less than 64,400 therms per year. Being an average day program, demand curves are generated monthly based on 12 months normalized consumption of the customers enrolled by an NGS divided by 365. Therein, Choice NGS firm delivery requirements are established at equal quantities for each day of the month. Demand curves specify the total delivery obligation of each NGS for every Pipeline Scheduling Point ("PSP") in which the NGS has customers. Capacity assigned is reviewed and adjusted prior to the beginning of each month to ensure supply reliability and permit the NGS to secure their supply and to have the supplies nominated for the beginning of the month, consistent with the Columbia Gas Transmission tariffs. The capacity that is assigned may include several receipt points and require primary firm delivery to as many as seven separate PSPs. Columbia Transmission, which provides over 82% of the interstate pipeline deliveries into Columbia, is assigned to the NGSs on a mandatory basis for 100% of the required firm delivery obligation with all assignments being for a 12-month period.

For Columbia, releasing capacity at zero cost to NGSs would not change current customer demand costs. However, Columbia has two concerns that are unique to the Company's average day program: (1) a zero capacity release cost could result in a perceived need to eliminate the CAF which would result in the transfer of storage injection, withdrawal and associated transportation commodity costs to PGC customers; and (2) a zero capacity release could also result in an NGS being emboldened to seek to serve customers seasonally, i.e. only in the winter because during the winter the NGS would continue to deliver supply equal to average day usage while collecting revenue based on its customer group's actual usage through the Purchase of Receivables program. This would give an NGS the ability to recover approximately 78% of sales in a normal winter while only delivering 42% (5/12) of supplies. Ultimately, this would create a large true-up cost issue for the NGDC with the potential for shifting costs to PGC customers as well as making it financially enticing for the NGS to leave the program during the summer period.

When Columbia releases capacity to a Choice NGS, that capacity is released on a recallable basis. However, Columbia is not required to recall the capacity upon a decrease in an NGS's need for capacity. That gives the NGS an opportunity to use the capacity for non-Choice customers served by Columbia or another utility and include a cost in their gas supply rate for that capacity. If the NGS is no longer paying the interstate pipeline for the capacity, and instead Columbia's Choice-eligible customers are paying for that capacity, then the NGSs have the ability to make a profit on capacity paid for by Columbia's customers. Most, if not all, gas utilities in Pennsylvania have a sharing mechanism in which profit from Capacity Release is split 75% to PGC customers and only 25% retained by the NGDC. If, as proposed by the Commission, all Choice-eligible customers begin paying for the capacity assigned to Choice NGSs, then Columbia proposes that those customers get 75% of any NGS profit made on that same capacity when it is not used for the Choice program.

Lastly, Columbia is unaware of any NGS that has requested a change to the Company's existing average day program. Indeed, Columbia's established program was designed to ease the burden on NGSs, and to make entry and participation in the Company's Choice program simple. Columbia has historically had one of the most active Choice programs in Pennsylvania, both in the number of customers being served by an NGS (81,148), and by the number of active NGSs (27).

C. Capacity Assignment From All Assets

1. Commission Proposal

The Commission seeks comments on the benefits associated with any NGDC's program for compensating for limited access to capacity facilities. However, the Commission did identify some proposals for interested parties to consider. Specifically, the Commission, while recognizing that physical access to certain facilities may raise reliability and/or operational problems for NGDCs and their customers, the Commission suggests that "virtual access" to the asset may be the best option to provide NGSs with the ability to utilize and benefit from the asset but still provide overall control to the NGDC for reliability assurance. Further, the Commission states that this type of access would also avoid violating FERC rules or other operational or reliability constraints. In support of this proposal, the Commission suggests, without elaboration, that by allowing all assets equal access to the market, shopping customers and competition should benefit, and that, if designed properly, there would be no impact to non-shopping customers or system reliability.

2. Columbia's Response

At the outset, Columbia notes that this proposal was not specifically addressed during the RMI process. While some NGDCs could maintain a "virtual access" approach for assigning capacity, Columbia does not support this approach for a few reasons. First, Columbia's complex distribution system makes management of a "virtual access" approach extremely difficult due to its wide-spread geographic location, disaggregated markets, numerous market areas, numerous points of delivery ("POD") and because of the several pipelines feeding into its system. Second, the "virtual access" approach will create greater operational risk and reliability issues for Columbia's system. Third, given the issues identified above, Columbia would need to implement new systems and modify numerous existing systems just to attempt a "virtual access" approach with no identified benefits to justify these significant costs.

As mentioned above, some NGDCs assign capacity to NGSs using a "slice of the pie" approach. However, not all NGDCs do so. The complexity of Columbia's system cannot readily facilitate this approach as it is not built to support such an approach. In operating its existing Choice program, Columbia relies exclusively on mandatory capacity assignment of Columbia Gas Transmission, LLC firm transportation service ("FTS") capacity to facilitate the Company's average day program and its need to maintain service reliability on a distribution system with approximately 350 individual points of receipt from interstate pipelines. As described above, Columbia developed and implemented an average day design for its Choice program approximately 20 years ago. Under this program, the Company releases capacity monthly based on incremental need with all capacity being released for a 12 month period. Columbia notes that it has not received any complaints from NGSs relative to its current average day program and capacity assignment.

Similar to the concept of "virtual assignment of capacity", a "slice of the pie" capacity assignment approach on a system like Columbia's would be extremely difficult if not impossible to implement, manage and administer given its large geographical footprint, large number of PODs that must be balanced daily and the six different interstate pipelines from which it receives service.

D. Imbalance Trading

1. Commission Proposal

The Commission proposes that imbalance trading between market participants (both Choice and Transportation customers) should be a market feature. The Commission notes that this change may require information technology upgrades as well as increased real time communication. In addition, the Commission notes that it is also possible that other provisions within an NGDC's program may need to change to accommodate imbalance trading between Choice and Transportation programs, such as mismatches in tolerance bands or penalty structures. However, while the Commission asks that these changes and concerns be highlighted, it emphasized that parties should address provisions that would customize imbalance trading for each participant.

Further, the Commission correctly noted that for imbalance trading to work, real time information between all market participants becomes more important. Therefore, the Commission requested that parties provide examples or conditions where additional communication could improve the market, particularly, communications practices that facilitate or complicate imbalance trading at the NGDC level. The Commission also suggested that, as imbalance trading will need certain real time information, the NGDC's electronic bulletin board could possibly serve as a general trading hub for each distribution system, with enhancements to fulfill this role.

Finally, the Commission stated for purposes of this proposal that is focused on daily imbalances and not month-end cash-ins/outs. However, the Commission invited parties to mention any impact this daily imbalance trading and communications proposal can have on the month-end mechanism. To implement this daily imbalance trading, the Commission proposes the following additions to the regulation at 52 PA Code 62.225:

> **(5) An NGDC shall provide the opportunity for imbalance trading on the day the imbalance occurred. Capacity may be traded between market participants provided that either:**
>
> **(i) The trade improves the position of both parties.**
>
> **(ii) The trade improves the position of one party and is agreed to by the second party but does not negatively impact the second party's imbalance.**

2. Columbia's Response

At the outset, Columbia notes that during the Beast Committee calls, no NGDC or NGS requested such an imbalance calculation reform or utilization of Columbia's existing nomination system as an imbalance trading platform. Columbia does not support this recommendation for several reasons. First, Columbia's system is not built for trading between CHOICE and Transportation and therefore it cannot accommodate such trading. Second, permitting NGSs to trade imbalances across transportation programs could result in NGSs "gaming the system". Third, in order for Columbia to implement and monitor such a program modification would require that the Company undertake expensive and time-consuming programming costs. Lastly, no party has requested this change and no clear reason as to the basis for such a change has been shared.

It is nearly impossible for Columbia to determine daily imbalances between its CHOICE and Transportation programs. Columbia's Choice Program is an average day program with a Daily Delivery Requirement and an integral seasonal imbalance. However, Columbia's Gas Distribution Service ("GDS") program does not operate with a Daily Delivery Requirement, but rather has a monthly evaluation of its generous balancing service, which provides for a rolling monthly imbalance, i.e. if an NGS' imbalance does not fall below zero or go above its applicable bank tolerance based on a percentage of its customer's annual contract quantity at the end of the month, no action is required.[3] Real-time information is not currently available for Columbia's Choice Program, and available only on a limited basis for customers served under the Company's GDS program.[4]

If Columbia permitted NGSs to trade imbalances between programs, an NGS could "game the system" across programs. For example, an NGS could use gas delivered on interruptible capacity to the GDS program customers on one or two days during the calendar month and then move that gas to its Choice customers through an imbalance trade to fulfill its Choice delivery obligations for the entire month. Conversely, a Choice NGS could attempt to trade away its imbalance, which is an integral feature of the Company's average day program, and force the Company to procure additional supplies to assure service reliability to the Choice eligible customers.

In order for Columbia to implement and monitor an Imbalance Trading program allowing for trading of imbalances between its CHOICE and GDS programs, would

[3] Columbia notes that in some limited circumstances, its gas transportation program for high usage customers known as Gas Distribution Service, does operate with a daily delivery requirement if there is a Daily Operational Order in place.

[4] Columbia will be implementing the C & I Network for the GDS program by 2020, which will provide daily usage information for GDS customers.

require the Company to undertake expensive and time-consuming programming changes. For example, Columbia will be implementing a Commercial & Industrial Network for its GDS program by 2020, which will provide daily usage information for customers eligible for Rate Schedules Small Distribution Service, Large Distribution Service and Main Line Distribution Service, which represents approximately 860 meters out of the Company's approximately 426,000 customer accounts. This network will cost approximately $5.6 million dollars in one-time costs to implement. Further, to make daily usage information available for the Customer Choice program, would require an even more significant investment. Columbia estimates to implement fixed network for its Choice program would cost approximately $25 million dollars.

Additionally, balancing the Choice program's delivery obligations must be factored into an NGDC's planning practices. If not, the result could increase the frequency of Operational Flow Orders ("OFOs") since an NGDC will not know when imbalances are occurring in real time and must therefore plan for such uncertainty. Such planning requirements will also impact costs to sales customers as the additional resources must be retained to provide for this unplanned/unpredictable event.

Columbia's existing electronic bulletin board, Aviator, currently provides the functionality for NGSs serving GDS customers to arrange for trading of monthly imbalances outside the system and then complete the transaction within Aviator with necessary checks to ensure that the respective NGS balances enable such a transaction. To move such activity to a daily trading function would provide limited value given Columbia's existing banking and balancing service and existing end of the month trading opportunities. Columbia's Aviator system does not offer the functionality for an NGS to post an imbalance they would like to trade and for another NGS to accept that trade electronically. Such functionality would require Columbia to develop or procure a third party provided system and integrate that system into Aviator at great expense for a yet to be defined benefit that would be lessened under Columbia's existing monthly trading and banking and balancing service.

Finally, Columbia submits that NGDCs continue to work with NGSs to make improvements to benefit the retail natural gas market. Indeed, Columbia has committed to system enhancements through its last two rate cases. Both enhancements were, at the request of NGSs, to improve NGS's ability to ensure delivery compliance under its Choice and GDS programs. As part of the settlement in Columbia's 2015 Rate Case at Docket No. R-2015-2468056, Columbia implemented new functionality in its nomination system that alerts an NGS when its daily nomination does n0t match its Daily Delivery Requirement. The cost of this enhancement was $23,200. Included in the settlement of Columbia's 2016 Rate Case at Docket No. R-2016-2529660, Columbia agreed to improve its Daily Measurement Equipment, which would provide GDS customers and proxies with reliable daily usage information, so that they are able to manage daily nominations to customer's daily usage. This enhancement represents an investment of over $5 million. These enhancements are in addition to the other changes Columbia has implemented during the RMI process: automatic access to account number mechanism ($329,885), and changes to the Company's bill to allow for greater use by NGSs ($302,566). Therefore, Columbia, and ultimately our customers have recently made a significant investment to improve the retail natural gas market. While Columbia supports retail natural gas competition, the Company cautions that further investments must be weighed against the benefits to be gained. Indeed, to this point no NGS has used the Company's automatic access to account number mechanism or availed themselves to added bill messaging space provided through the required changes to Columbia's consolidated bill. Customers should not be asked to make further investments in market changes without identified benefits to be gained.

E. Penalty Structure During Non-peak Times

1. Commission Proposal

In its *Business Practices ANOPR*, the Commission states that, "During the Retail Market Investigation stakeholder discussions, concerns were raised about the fairness of certain penalties during these off-peak periods and corresponding questions about whether the penalties were sufficient to prevent inappropriate market behavior. The Commission recognizes that there are differences in gas costs, predominately due to capacity, storage, access to production, etc. between NGDCs. Still, we think that a standardized penalty mechanism across Pennsylvania that is both fair and adequate is needed to reduce barriers to participation in the retail natural gas market."

The Commission proposes that all NGDCs should establish penalties during system off-peak periods based upon its local gas costs. For this, the Commission suggests that NGDCs could propose a local hub or utilize a system average cost as its base market price for natural gas. From there, a straight multiplier could be used to generate the penalty. During system off-peak periods, a value of 15% was generally considered as reasonable by some of the stakeholders. While the multiplier could be a standardized set percentage, the Commission recognizes that a market based formula may offer a more fair and dynamic mechanism to respond to NGDC concerns about inadequate penalty structure and provide for a fairer penalty. For this purpose, UGI's formula approach could provide a template for a market based approach. UGI's penalty formula approach is described its tariff as:

> *The difference in price between the highest published index price for Texas Eastern M-3 and the lowest published index price for Texas Eastern M-2, as published in Platts' Gas Daily on the table "Daily Price Survey", but shall not be lower than $0.25/per Dth, applied to the difference between the DDR and the delivered volumes, plus all incremental costs incurred by Company as a result of the failure to deliver the DDR.*[5]

The Commission states that overall, during system off-peak periods, an NGDC often has more flexibility to address imbalances and therefore, the imbalance is less likely to cause reliability problems. However, the Commission correctly states that this lack of impact to reliability does not absolve market participants from their obligation to meet their customers' requirements. As the market moves and fluctuates, a formula-based penalty also fluctuates. While static penalties have their place, the Commission posits that a minimum penalty, like the one found in UGI's penalty structure above, is needed and invites parties to comment on the need for such a penalty structure. Ultimately, the Commission posits, that UGI's provision aims at improving reliability within their system and highlights circumstances when penalties should not be imposed. While NGDCs might waive a penalty if an NGS helped to stabilize reliability, the Commission proposes that these conditions should be explicitly stated within the Company's tariffs. For this reason, the Commission proposes that language similar to UGI's be added to all NGDC supplier tariffs. In addition, the Commission proposes that all penalties should be structured based upon market conditions similar to that found in UGI's tariff. The Commission also invites comment on whether to require an NGDC to exempt an NGS from any penalty where the NGS's imbalance benefits the distribution system's daily balancing position. The Commission offered the following addition to 52 Pa Code 62.225:

> **(6) Penalties during system off-peak periods must correspond to market conditions.**

[5] UGI Gas Tariff Original Page 111.

(i) An NGDC shall use the system average cost of gas as the reference point for market based penalties. If an NGDC takes service from a local hub, it may use the local hub as a reference point for market based penalties.

(ii) The lowest penalty must be set at the market price.

In support of this proposal, the Commission states that it is concerned that using static penalty amounts risks creating an inflexible and at times inaccurate reflection of the market as the penalty may be inadequate or overly burdensome. Instead, a market-based, standardized penalty structure for off-peak periods could provide greater transparency and predictability. Further, the Commission states that such a mechanism would allow all market participants to quantify risk across any or all operations within the Commonwealth subject only to that system's market based cost of gas. Also, the Commission suggests that a standardized penalty structure may persuade NGSs to enter new markets, offer additional products or generate increased competition as the penalty structure is consistent regardless of which NGDC the NGS is operating in. Ultimately, a clear, market-based penalty structure may allow local producers, standby customers, or other non-traditional market participants to offer unique options to balance the system, particularly when coupled with imbalance trading.

2. Columbia's Response

At the outset, Columbia notes that this proposal was not specifically addressed during the RMI process. While Columbia understands the Commission's interest in a standardized penalty structure especially because a standardized structure works for the Electric Distribution Companies ("EDCs"), Columbia opposes its proposal for several reasons, not the least of which is because NGDC systems do not function like EDC systems do. First, Columbia notes that it does not operate its system in a vacuum. Rather, as addressed above, Columbia communicates and works regularly with NGSs to resolve issues like that of penalties. Columbia transformed its operational order penalty structure from a flat rate per therm to a market based rate as part of the settlement agreement in Docket No. R-2016-2529660. Second, an off-peak price structure would not work for Columbia as the Company is subject to operational orders during both peak and off-peak periods. For example, Columbia is subject to the penalty structure of the upstream pipeline ("TCO"), whose tariff does not accommodate a seasonal pricing structure. Third, because Columbia has a very wide-spread geographic footprint served directly by six different pipelines it sees a very wide range of prices on the pipelines delivering to its system, yet enjoys very little flexibility to maneuver receipts from pipeline to pipeline as previously discussed. For example, when looking at just two pricing locations, the TCO Pool and Texas Eastern M-3, for the last three summers the price differential for first of the month purchases has averaged $1.07 which translates to 84% of the lowest price of these two indices on average. Without question a 15% adder to an average system price will create significant economic incentive for NGSs to game the system. Lastly, Columbia maintains that a standardized penalty structure works for EDCs, but that it is not a realistic model for NGDCs due to system constraints and the vastly different array of resources the NGDCs have to manage its system.

IV. **CONCLUSION**

For the reasons set forth above, Columbia respectfully requests that the Commission convene an in-person meeting of all interested parties, and Commission staff to more thoroughly discuss the issues set forth in the Advanced Notice of Proposed Rulemaking prior to making any proposed changes to the Commission's existing regulations.

Respectfully submitted,

Andrew S Tubbs
____
Andrew S. Tubbs (ID #80310)
NiSource Corporate Services Company
800 North Third Street, Suite 204
Harrisburg, PA 17102
Phone: 717-238-0463
Fax: 717-238-0591
E-mail: astubbs@nisource.com

Date: November 2, 2017

Attorney for Columbia Gas of Pennsylvania, Inc.