



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

August 23, 2022

Via Electronic Filing

Rosemary Chiavetta, 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-2022-3031211
I&E Main Brief

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the **Non-Proprietary** version of **Main Brief of the Bureau of Investigation and Enforcement in Support of Non-Unanimous Settlement of Revenue Allocation and Rate Design** in the above-captioned proceeding. The **Proprietary** version will be submitted to the Secretary Bureau's file-share site.

Copies are being served on parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Erika L. McLain'.

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cc: Deputy Chief Administrative Law Judge Christopher Pell (*via email*)
Administrative Law Judge John M. Coogan (*via email*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2022-3031211
	:	
Columbia Gas of Pennsylvania, Inc.	:	

**MAIN BRIEF OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT
IN SUPPORT OF NON-UNANIMOUS SETTLEMENT OF
REVENUE ALLOCATION AND RATE DESIGN**

****NON-PROPRIETARY VERSION****

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Dated: August 23, 2022

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I. Introduction

A. Procedural History

On March 18, 2022, Columbia Gas of Pennsylvania, Inc. (“Columbia” or “Company”) filed Supplement No. 337 to Columbia’s Gas Service Tariff – Pa. P.U.C. No. 9 (“Supplement No. 337”) in which Columbia seeks an increase in annual distribution revenues of \$82.2 million, to become effective May 17, 2022.

On March 22, 2022, the Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance. The Office of Small Business Advocate (“OSBA”) filed a Notice of Appearance, Public Statement and formal Complaint on March 28, 2022. The Office of Consumer Advocate (“OCA”) filed a Notice of Appearance, Public Statement, and formal Complaint on April 5, 2022, and Petitions to Intervene were filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), the Pennsylvania Weatherization Provider’s Task Force, Inc. (“PWPTF”), and the Retail Energy Supply Association, Shipley Choice, LLC, and NRG Energy, Inc. (“RESA/NRG Parties”). The Pennsylvania State University (“PSU”) filed a formal Complaint on April 15, 2022, Columbia Industrial Intervenors (“CII”) filed a formal Complaint on April 27, 2022, and Richard C. Culbertson filed a formal Complaint on April 28, 2022.

On April 14, 2022, the Commission issued an Order suspending Columbia’s filing by operation of law until December 17, 2022.

On April 20, 2022, Administrative Law Judge Christopher P. Pell (“ALJ Pell”) issued a Prehearing Conference Order scheduling a telephonic prehearing conference on April 29, 2022.

A telephonic prehearing conference was held on April 29, 2022 with ALJ Pell presiding. The Parties agreed upon a procedural schedule in this matter which was presented to ALJ Pell at the prehearing conference. On May 3, 2022, ALJ Pell and Administrative Law Judge John Coogan¹ (“ALJ Coogan”) issued a Prehearing Order that memorialized the agreed upon procedural schedule along with discovery modifications.

A total of four telephonic Public Input Hearings were scheduled to take place, two on May 31, 2022 scheduled for 1:00 p.m. and 6:00 p.m. and two on June 1, 2022 scheduled for 1:00 p.m. and 6:00 p.m. The ALJs were notified prior to the Public Input Hearings that no witnesses had signed up to testify at either 1:00 p.m. hearing and both 1:00 p.m. Public Input Hearings were cancelled. At the 6:00 p.m. Public Input Hearing on June 1, 2022, two Columbia customers testified.

Pursuant to the procedural schedule set forth by ALJ Pell and ALJ Coogan’s Prehearing Order, the parties exchanged direct, rebuttal, surrebuttal, and written rejoinder testimony. I&E served the following statements of testimony and exhibits:

- I&E Statement No. 1 (Proprietary), I&E Statement No. 1 (Non-Proprietary), I&E Exhibit No. 1 (Proprietary), I&E Exhibit No. 1 (Non-Proprietary), I&E Statement No. 1-R, I&E Exhibit No. 1-R, I&E Statement No. 1-SR (Proprietary), and I&E Statement No. 1-SR (Non-Proprietary) the prepared direct, rebuttal and surrebuttal testimony and exhibits of I&E witness D.C. Patel, who addressed the Company’s operating and maintenance expenses, and overall revenue requirement;
- I&E Statement No. 2, I&E Exhibit No. 2 and I&E Statement No. 2-SR, the prepared direct and surrebuttal testimony and exhibit of I&E witness Christopher Keller, who addressed the Company’s rate of return request;

¹ ALJ Coogan was assigned to co-preside in this matter on May 2, 2022.

- I&E Statement No. 3, I&E Exhibit No. 3, I&E Statement No. 3-R and I&E Statement No. 3-SR the prepared direct, rebuttal and surrebuttal testimony and exhibit of I&E witness Ethan H. Cline, who addressed the Company’s rate base and rate structure requests; and
- I&E Statement No. 4, I&E Exhibit No. 4, and I&E Statement No. 4-SR, the prepared direct and surrebuttal testimony and exhibit of I&E witness Tyler Merritt, who addressed the Company’s pipeline safety issues.

An evidentiary hearing took place on August 3, 2022. The parties attended the telephonic evidentiary hearing to enter evidence into the record. All cross-examination was waived by the parties except for Columbia witness Djukic who was cross-examined by the RESA/NGS Parties. The evidentiary hearings on August 2, 2022 and August 4, 2022 were cancelled. On August 17, 2022, Counsel for Columbia Gas informed the ALJs via electronic mail that an agreement in principle had been reached by all active parties, excluding Mr. Culbertson, on all issues excluding revenue allocation and rate design. On August 19, 2022, Counsel for Columbia Gas informed the ALJs via electronic mail that all active parties, excluding the Office of Small Business Advocate and Mr. Culbertson, have reached an agreement in principle to resolve the allocation of the negotiated rate increase among the customer classes. Therefore, I&E files the instant Main Brief pursuant to the procedural schedule established in this case solely on the issue of revenue allocation.

B. Burden of Proof

The Commission has a “duty to set ‘just and reasonable’ rates, reflecting a ‘balance of consumer and investor interests.’”² The Commission has discretion to

² *Popowsky v. PUC*, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301.

determine the proper balance between interests of ratepayers and utilities in determining just and reasonable rates.³ Pursuant to Section 315(a) of the Public Utility Code, the burden of proof for all claims remains on the Company and the proponent of any adjustment need only go forward with sufficient evidence to support its reasonableness.⁴

II. Summary of Argument

As explained in the Joint Petition and below, the Non-Unanimous Settlement fairly and reasonably allocate the increase in natural gas revenues among Columbia's customer rate classes. The Unanimous Settlement, which will be filed at a later date, allows the Company to recover a revenue increase of {BEGIN PROPRIETARY} [REDACTED] [REDACTED] {END PROPRIETARY} After multiple settlement discussions, a compromise was reached with regard to Revenue Allocation and Rate Design between all active parties except for the OSBA and Mr. Culbertson.

I&E is charged with representing the public interest in rate proceedings before the Commission. As a result, I&E must scrutinize the filing from multiple perspectives to determine what the appropriate result would be for the Company, as well as the customers, while also taking into account what is appropriate for utility regulation as a whole in the Commonwealth. Here, the Settling Parties, after close scrutiny, successfully achieved a Settlement Agreement on Revenue Allocation and Rate Design in this base rate case.

³ Id. citing *Pa. PUC v. Philadelphia Electric Co.*, 522 Pa. 338, 342-43, 561 A.2d 1224, 1226 (1989).

⁴ *Pa. P.U.C. v. West Penn Power Company*, 69 P.U.R.4th 470, 59 Pa.P.U.C. 552 (1985); 66 Pa. C.S. § 315.

I&E requests approval of the Joint Petition based on I&E's determination that the Settlement Agreement meets all the legal and regulatory standards necessary for approval. "The prime determinant in the consideration of a proposed Settlement is whether or not it is in the public interest."⁵ The Commission has recognized that a settlement "reflects a compromise of the positions held by the parties of interest, which, arguably fosters and promotes the public interest."⁶ As a product of negotiation and compromise between multiple parties, this Settlement Agreement reflects concessions from Columbia's original rate request as well as concessions from the Settling Parties' direct testimony positions. Accordingly, the Bureau of Investigation and Enforcement believes that the terms and conditions of the Joint Petition are in the public interest.

III. Rate Structure

A. Cost of Service

An allocated cost of service ("ACOS") allocates or assigns a utility's revenue requirement based on provision of service to a defined set of customer classes that are different in terms of demand and usage patterns. An ACOS is a formalized analysis of costs that attempts to assign to each customer or rate class its proportionate share of the company's total cost of service. The results of each service can be utilized to determine the relative cost of service for each class and help determine the individual class revenue requirements and, to the extent a particular class is above or below the system average rate of return, show the additional revenues each class receives or conversely the

⁵ *Pennsylvania Public Utility Commission v. Philadelphia Electric Company*, 60 PA PUC 1, 22 (1985).

⁶ *Pennsylvania Public Utility Commission v. C S Water and Sewer Associates*, 74 PA PUC 767, 771 (1991).

additional revenues that each class contributes to the company's overall revenues. In addition to the relative provision of revenues, a relative rate of return is also provided, which shows how the rate of return for each class compares to the system average rate of return.⁷

The rate of return is the Commission authorized return on rate base that is determined in a base rate proceeding. A relative rate of return indicates how the rate of return of each customer class compares to the system average rate of return. In general, a relative rate of return that provides revenue equal to its cost to serve would have a relative rate of return equal to 1.0.⁸

In this case, the Company performed and provided three ACOS studies in its filing: (1) a customer demand ACOS, (2) a peak and average ACOS, and (3) an average of the customer-demand and peak and average ACOS.⁹ The Company proposed to utilize the second method, the peak and average study, to allocate the proposed revenue increases.¹⁰ In direct testimony, I&E agreed with the Company as it believes that the peak and average ACOS study should be utilized.

The difference between the customer-demand ACOS and the peak and average ACOS is in the way that each study allocates costs of mains. Consequently, the two ACOS studies yield different relative rates of return for each rate class.¹¹ Generally, the customer-demand study is more favorable to the industrial class and the peak and average

⁷ I&E Statement No. 3, pp. 8-9.

⁸ I&E Statement No. 3, p. 9.

⁹ Columbia Exhibit No. 111, Schedule 1, Schedule 2, and Schedule 3; Columbia Statement No. 6, p. 4.

¹⁰ Columbia Statement No. 6, p. 4.

¹¹ I&E Statement No. 3, p. 10.

study is more favorable to the residential class. The customer-demand methodology classifies distribution mains as partially customer related and partially demand related.¹² The customer portion of mains is then allocated to the various customer classes based on the total number of customers, while the demand portion is allocated to classes based on peak day contributions or demand. This methodology was rejected by the Commission in Columbia's 2020 base rate case.¹³

The peak and average ACOS allocates distribution mains to classes based partially on contributions to peak day demand and partially on annual consumption or average demand.¹⁴ This methodology has been accepted by the Commission in Columbia's 2020 base rate case¹⁵ and is the methodology recommended by I&E in this proceeding.

In rebuttal testimony, the OSBA recommended adjustments to the Peak and Average allocation.¹⁶ OSBA witnesses Knecht and Ewen state that they adjusted their ACOS recommendation based on "what appears to be a significant shift in either the behavior customers or in the Company's method for deriving design day demands."¹⁷ In rebuttal testimony, the Company responded to the OSBA's adjustments by explaining that it is possible that there were changes in customer behavior, contributing factors of colder weather in 21/22 v. 20/21, or any impact caused by the shut-off moratorium due to

¹² I&E Statement No. 3, p. 11.

¹³ *Pa. P.U.C. v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2020-3018835, pp. 217-218 (Order entered February 19, 2021).

¹⁴ I&E Statement No. 3, p. 11.

¹⁵ *Pa. P.U.C. v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2020-3018835, p. 218 (Order entered February 19, 2021).

¹⁶ OSBA St. No. 1-R.

¹⁷ OSBA St. No. 1-R, p. 2.

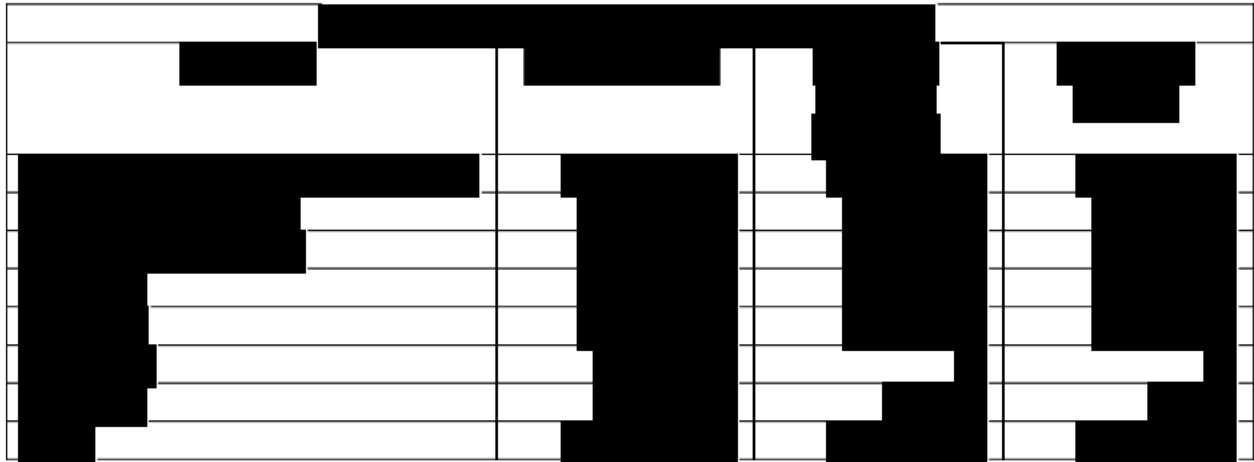
the COVID-19 pandemic.¹⁸ However, Columbia concludes that the 2022 data is more representative of current customer usage and aligns better by rate class with the 2020 rate case than the 2021 rate case data.¹⁹ I&E witness Cline found the Company's response reasonable and recommended that the Peak and Average methodology be used and that the OSBA adjustments be denied.²⁰

The revenue allocation set forth in the Joint Petition not only reflects a compromise of the Joint Petitioners but also recognizes the influence of the peak and average methodology. Accordingly, the revenue allocation agreed upon by the Joint Petitioners is in the public interest.

B. Revenue Allocation

The Joint Petitioners agreed upon the following Revenue Allocation:

{BEGIN PROPRIETARY}



{END PROPRIETARY}

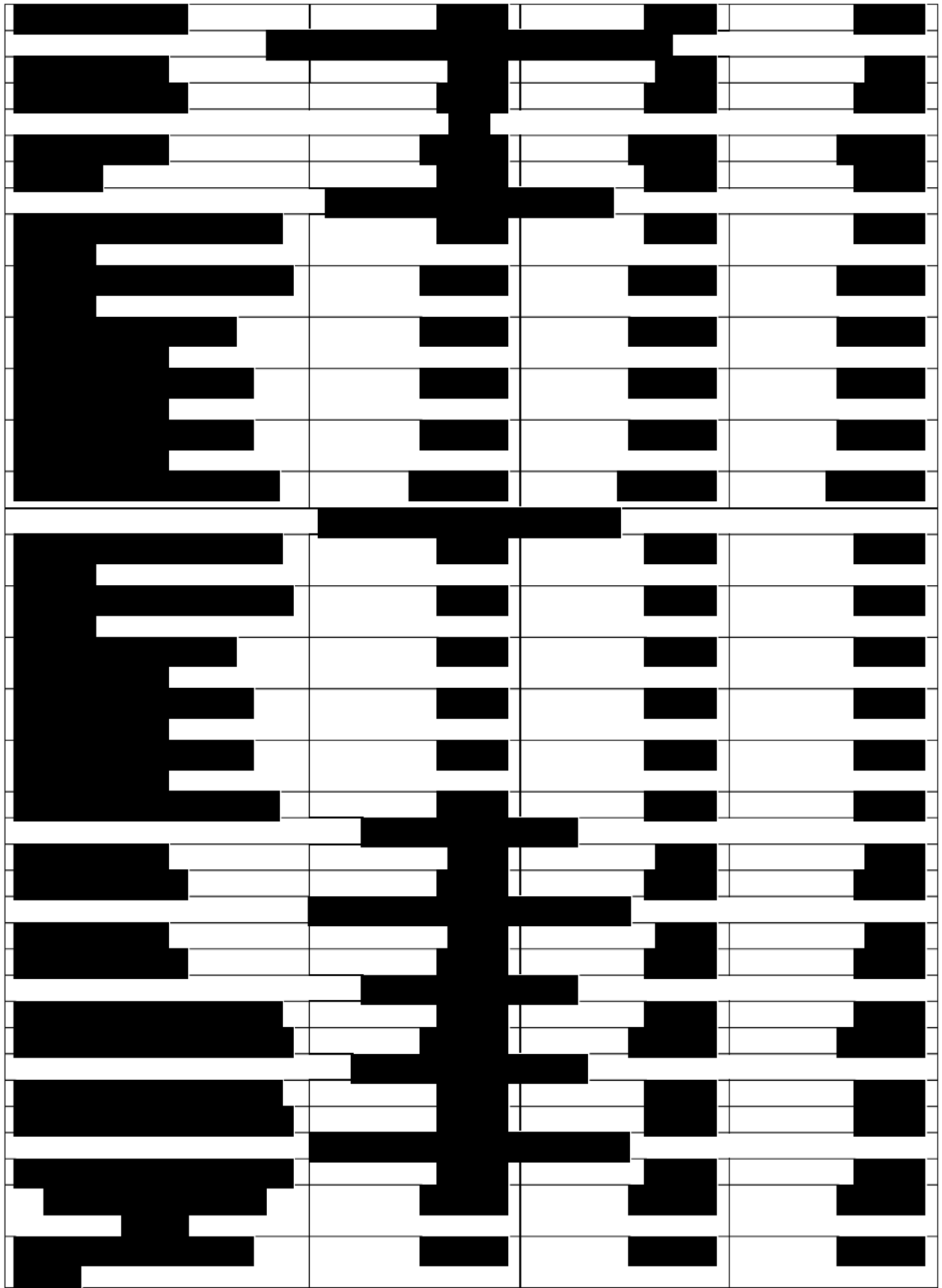
¹⁸ Columbia St. No. 6-R, p. 28.

¹⁹ Columbia St. No. 6-R, pp. 28-30.

²⁰ I&E St. No. 13.

²¹ Columbia Gas Exhibit No. 103, Schedule 8, p. 4.

²² Columbia Gas Exhibit No. 103, Schedule 8, p. 4.



The agreed upon rate design reflects {BEGIN PROPRIETARY} [REDACTED] [REDACTED] {END PROPRIETARY} which means the revenue requirement will largely be recovered through usage rates.

The allocation of rate increase among the customer classes is a significant issue in base rate proceedings. It is important to allow the utility to recover only those direct monthly costs that vary with the addition or loss of a customer through the customer charge. This charge provides the Company with a steady, predictable level of income that will allow for the proper maintenance and upkeep of the system. Establishing the proper customer charge protects ratepayers by ensuring that Columbia is not being overcompensated. Moderating the requested increase in this proceeding also benefits ratepayers as it allows them to reap a greater portion of the benefit of conservation. Shifting costs to the volumetric portion of a customer's bill allows for the immediate realization of the benefit of conserving usage. Designing rates to allow customers to have greater control of their utility bills is in the public interest.

D. Summary

The Non-Unanimous Settlement reflects a careful compromise between the Settling Parties. The Settlement provides a Revenue Allocation and Rate Design that falls within I&E's range of reasonableness and is in the public interest.

IV. Conclusion

The Commission's Bureau of Investigation and Enforcement supports the Joint Petition for Non-Unanimous Settlement of revenue allocation and rate design as being in the public interest and respectfully requests that Deputy Chief Administrative Law Judge

Christopher P. Pell and Administrative Law Judge John Coogan recommend, and the Commission subsequently approve, the foregoing Non-Unanimous Settlement Agreement on revenue allocation and rate design.

Respectfully submitted,

A handwritten signature in cursive script that reads "Erika L. McLain".

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PA Attorney ID No. 320526

Bureau of Investigation and Enforcement
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Dated: August 23, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
 :
 v. : Docket No.: R-2022-3031211
 :
 Columbia Gas of Pennsylvania, Inc. :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Main Brief of the Bureau of Investigation and Enforcement in Support of Non-Unanimous Settlement of Revenue Allocation and Rate Design** dated August 23, 2022, in the manner and upon the persons listed below:

Served via Electronic Mail Only

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