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January 31, 2023

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: Use of Fully Projected Future Test Year
52 Pa. Code Chapter §§ 53.51 – 53.56a
Docket No. L-2012-2317273**

Dear Secretary Chiavetta:

Enclosed for filing please find Columbia Gas of Pennsylvania, Inc.'s Reply Comments in response to the Proposed Rulemaking Order dated August 24, 2022 on Amendments to 52 Pa. Code §§53.51-53.56 in the above referenced docket.

Should you have any questions, please do not hesitate to contact the undersigned at (223) 488-0794.

Very truly yours,

A handwritten signature in blue ink that reads "Candis A. Tunilo". The signature is written in a cursive style and is contained within a light blue rectangular box.

Candis A. Tunilo

/kak

Enclosure

Cc: Certificate of Service (w/enc.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Use of Fully Projected Future Test Year : Docket No. L-2012-2317273
52 Pa. Code Chapter §§ 53.51 – 53.56a

**REPLY COMMENTS OF
COLUMBIA GAS OF PENNSYLVANIA, INC.
TO THE PROPOSED RULEMAKING ORDER ON
AMENDMENTS TO 52 Pa. CODE §§ 53.51-53.56**

I. INTRODUCTION

Columbia Gas of Pennsylvania, Inc. (“Columbia”) submits these Reply Comments to the Comments of various parties to the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) Notice of Proposed Rulemaking (“NOPR”) at the above docket. The NOPR Order was entered on August 24, 2022 (“Order”), and published in the *Pennsylvania Bulletin* on October 1, 2022. Comments were due on November 15, 2022.¹ The 45-day reply comment deadline was extended to January 31, 2023, by Secretarial Letter of October 14, 2022.

Columbia submits these Reply Comments to address certain positions and recommendations made by stakeholders in their Comments. Columbia incorporates the Comments submitted by EAP herein by reference and reiterates its support thereof. For the sake of brevity and efficiency, however, Columbia will not further discuss positions already fully addressed in EAP’s Comments. Additionally, Columbia supports EAP’s Reply Comments and incorporates them by reference herein as if fully set forth. To the extent Columbia does not address specific

¹ On November 15, 2022, Columbia submitted a letter adopting the Comments filed by the Energy Association of Pennsylvania (“EAP”) and reserving the right to submit Reply Comments.

recommendations or proposals by stakeholders in their Comments to the NOPR herein, Columbia relies on EAP's Reply Comments thereto.

II. REPLY COMMENTS

As stated in the Order, the Commission's goal in the NOPR was to "develop consistency in filing requirements across public utility types, incorporate the appropriate standard discovery requests, and eliminate the filing of unnecessary information." *See* Order at 9. Such streamlined filing requirements were "expected to reduce the regulatory burden and costs associated with preparing and litigating general rate increase cases." *Id.* at 10. Columbia submits that the Commission's goal is not met with the proposed regulations. Instead, in the proposed regulations, the number of filing requirements have more than doubled and include new requirements for post-rate case review. Yet, the proposed regulations lack any limitation on data requests from other parties.

Additionally, several stakeholders submitted Comments recommending even more requirements be added to the filing requirements or expanding the proposed requirements. By way of example and in no way exhaustive, Industrial Energy Consumers of Pennsylvania ("IECPA") recommends expanding requirements to provide five (5) years of data preceding the Historic Test Year ("HTY") instead of only two (2) years of data. *See* IECPA Comments at 6-7, 8. Additionally, IECPA recommends that utilities be required to provide ten (10) years of monthly historical data for customer counts, usage and sales. *Id.* at 9. CAUSE-PA recommends adding seven (7) more filing requirements related to the impact of any proposed rate increase on low-income customers. *See* CAUSE-PA Comments at 7-8.

Further, IECPA recommends adding a "Just and Reasonable Rate Review Proceeding" to the filing requirements. *See* IECPA Comments at 4-6. *See also* OSBA Comments at 3. Such

recommendation would extend the utility's burden of proof beyond the statutory period for investigation into base rate increase requests and is therefore, not related to *filing* requirements. Columbia submits that it is not appropriate to use this proceeding to advocate for wish list items to become filing requirements for all utilities. Further, it is not appropriate to include filing requirements related to every issue that has ever been identified in base rate proceedings (or other proceedings such as Section 1307(f) proceedings or LTIIP proceedings) if the goal is to reduce the regulatory burden and costs associated with base rate filings. Parties to base rate cases should instead utilize the discovery process to investigate unusual issues.

Since the effective date of Act 11 in April 2012, there have been dozens of major base rate cases filed with the Commission using the Fully Projected Future Test Year ("FPFTY") to satisfy the utility's burden of proof. Specifically, Columbia has filed eight (8) base rate cases using a FPFTY since 2012. Columbia and other utilities have been using the approximately 45-year-old Future Test Year ("FTY") filing requirements and including an additional year of projected supporting data to satisfy their burdens of proof. Further, parties to these base rate cases have, by and large, been issuing the same discovery requests but also requesting FPFTY support; the quantity of discovery requests has not significantly increased, though. As such, it is clear the existing filing requirements are adequate and already satisfy Act 11's directive to the PUC to establish rules and regulations to guide utilities and other parties in the use of the FPFTY.² Additional filing requirements are also not necessary to streamline base rate filings or to reduce regulatory burden or costs associated with base rate filings.

To the extent that filing requirements are updated, however, Columbia submits that there should be consistency in the number of years for which data must be supplied when utilities use

² See 66 Pa. C.S. § 315(e).

the FPFTY to support a base rate filing. Columbia proposes that the timeframe be the year preceding the HTY, the HTY, the FTY and the FPFTY. Four years of data is adequate for the investigation of a change in base rates. The NOPR Order's³ and other stakeholders' proposals for additional years of data⁴ increases the burden and cost of base rate cases without any actual, meaningful need for the information. Further, additional years of data may not be available due to individual utility record retention policies. As such, these proposals should be rejected. This does not mean that additional data could not be obtained, though. To the extent that an unusual issue presents in a base rate case, discovery is the appropriate method to investigate the issue further.

A. Annex A, Section 53.53(c) and Annex B, Section III.A.8

In Comments, the OCA supports the recommendation in the NOPR that all supporting worksheets be provided with the base rate filing in live or working electronic format with all formula intact in order to “reduce the amount of time ... to get live electronic versions of the worksheets after the filing.” *See* OCA Comments at 5. Columbia submits that this proposed filing requirement should be rejected. As explained by EAP, UGI, First Energy (“FE”), Aqua and the National Association of Water Companies – Pennsylvania Chapter (“NAWC”) in their Comments, live worksheets with formula intact contain information proprietary to the utility, a third-party consultant or vendor.⁵ Columbia submits that only worksheets that support the proposed revenue

³ *See e.g.* Order at Annex B, Section III.A.5.

⁴ *See e.g.* IECPA Comments at 6-7 (expanding data required in Annex B, Sections III.B.3 and III.B.4 to five years); OCA Comments at 8 (expand data required in Annex B, Section III.F.2 to include two years preceding the HTY); IECPA Comments at 8 (expand data required in Annex B, Section III.G.4 to include five years immediately preceding the HTY); IECPA Comments at 9 (expand data required in Annex B., Section III.H.6 to include ten years of data immediately preceding the HTY); OCA Comments at 9 (expand Annex B, Section III.H.7 to include two additional years of customer growth projections); IECPA Comments at 9 (expand Annex B, Section III.H.13 to include ten years of average annual customer counts and annual usage).

⁵ *See* EAP Comments at 12-13; UGI Comments at 11-12; FE Comments at 25-26; Aqua Comments at 8-9; NAWC Comments at 4.

requirement, rate structure and costs allocation be required. Any additional live worksheets that parties might seek should be left to discovery. Further, as recommended by UGI, utilities should be given the flexibility to upload the worksheets to a secured PUC or utility site within seven (7) days of the base rate case filing. Further, to the extent the worksheets contain confidential information, access should be permitted only upon execution of a non-disclosure agreement or entry of a protective order.

B. Annex A, Section 53.56a(c)

In the NOPR Order at Annex A, the Commission provides proposed new Section 53.56a, which sets forth the supporting data required if a utility is using the FPFTY to discharge its burden of proof in a base rate filing and includes obligations beyond the completion of the base rate case.

OSBA supports the requirement that utilities provide evidence of the accuracy of forecast estimates after a base rate case is resolved, regardless of whether the case is litigated or the subject of a black box settlement. *See* OSBA Comments at 2-3. The OSBA recommends that the requirement set forth in Section 53.56a(c) be strengthened “by making it clear that the public utility filing should include all aspects of the estimated revenue requirement, including average and year-end rate base, volumes by rate class, rate revenues by rate class, miscellaneous revenues, and operating, maintenance, administrative and depreciation expenses.” *Id.* at 3. Finally, the OSBA recommends that utilities be required to explain material differences between forecast and actual values. *Id.*

OSBA’s proposal to add language specifying post-case data obligations should be rejected for a couple reasons. First, according to the Pennsylvania Commonwealth Court, average rate base

is a completely irrelevant notion.⁶ *See McCloskey v. Pa. PUC*, 225 A.3d 192, 207 (Pa. Commw. Ct. 2020) (Section 315(e) does not speak in terms of averages). Therefore, it is clearly burdensome to produce such information that has no relevancy to a utility's burden of proof. Second, since the implementation of Act 11, in black box settlements, parties have, at times, identified what follow-up information they want the utility to produce to show the accuracy of FPFTY estimates. The Commission may do so in orders in litigated proceedings. There has not been a need shown to alter the current method.

In its Comments, IECPA sets forth its support for new Section 53.56a(c) and recommends the Commission go even further by initiating a "Just and Reasonable Rate Review Proceeding" to assess the accuracy of a utility's FTY and FPFTY projections. *See* IECPA Comments at 5. This recommendation must be rejected for several reasons. First, Section 315(e), 66 Pa. C.S. § 315(e), merely permits discretionary review by the PUC after a final rate determination, and as such, IECPA's recommendation mandating review after every base rate case lacks any basis in law. Second, requiring utilities and non-utility parties to essentially re-litigate Commission-approved rates after every base rate case would render 66 Pa. C.S. § 1308(d) meaningless. Section 1308(d) permits seven (7) months for an investigation into a rate change request and requires that "[b]efore the expiration of such seven-month period, a majority of the members of the commission serving in accordance with law, acting unanimously, *shall make a final decision and order, ...*" *See* 66 Pa. C.S. § 1308(d). (Emphasis added). Once a final decision and order is rendered, the Commission-approved rates are entitled to the legal protections that follow. Finally, IECPA's

⁶ For this same reason, IECPA's proposals to add the requirement that utilities provide projected monthly average test year rate base data to Annex A, Sections 53.56(c) and 53.56a(a) must be rejected. *See* IECPA Comments at 4-5.

proposal wholly lacks administrative efficiency yet adds significantly to the burden and expense of base rate cases for utilities and non-utility parties.

For the foregoing reasons and the reasons stated in EAP's Comments,⁷ any "filing" requirements beyond the final determination of a base rate case should be eliminated from Annex A, Section 53.56a(c).

C. Annex B, Section III.A.6

New Section III.A.6 directs utilities to "[s]upplement the filing with the most recent information if more recent year-end information becomes available during the course of the current base rate case." *See* Order at Annex B. In Comments, EAP and Aqua requested clarification to the proposed filing requirement, stating that the new requirement is very broad, and the frequency of updates is unclear. *See* EAP Comments at 12; Aqua Comments at 8. Columbia supports EAP's and Aqua's requests for clarification. Columbia further submits that the PUC should define exactly what information is being requested in this new proposed filing requirement.

D. Annex B, Section III.B.1

In Comments, FE proposes edits to this filing requirement to limit the discussion to *principal* reasons for the requested rate change rather than requiring a discussion of each proposed adjustment. *See* FE Comments at 26. FE also proposes that only *major changes* driving the need for the proposed rates be discussed in the required summary. *Id.* Columbia supports FE's proposed edits to Section III.B.1. As the name of the Section states, it should be a *summary* of the major aspects of the filing and the items driving the need for the proposed rate increase, not an in-depth analysis of the filing. Utilities have been providing this type of summary for decades, and there

⁷ *See* EAP Comments at 10.

has been no indication from non-utility parties that such summaries have hindered their ability to investigate or analyze the rate increase requests.

E. Annex B, Section III.B.10

In proposed new Section III.B.10, utilities must, *inter alia*, “[i]dentify each major addition to plant or facilities to be placed in operating service or removed from operating service.” In Comments, NAWC, Aqua, Pennsylvania-American Water Company (“PAWC”) and Veolia Water Pennsylvania (“Veolia”) recommend that the PUC define the term “major.”⁸ Further, EAP and Aqua request that the PUC clarify the time-period for the data being requested.⁹ Columbia supports these clarification requests. Section III.B.10 is situated in the “Summary of Filing” requirements, and as such, the filing requirement should be limited to a synopsis, not an in-depth analysis of plant additions and retirements. Further, Columbia does not object to Veolia’s specific recommendation that the term “major” be clarified to include only plant additions or retirements that represent more than 5% of the change to plant in service since the utility’s last base rate case.¹⁰

F. Annex B, Section III.F.2

In proposed new Section III.F.2, utilities must “[p]rovide a comparative balance sheet for the HTY and the year immediately preceding the HTY.” In Comments, OCA recommends that this requirement be expanded to include a comparative balance sheet for the two (2) years preceding the HTY because it would “provide useful information to the parties.” *See* OCA Comments at 8. Columbia opposes OCA’s recommendation because the additional information is merely wishful but not necessary for parties to adequately investigate and analyze a utility’s rate

⁸ *See* NAWC Comments at 5; Aqua Comments at 10; PAWC Comments at 3-4; Veolia Comments at 2.

⁹ *See* EAP Comments at 14; Aqua Comments at 10.

¹⁰ *See* Veolia Comments at 2.

increase request. Such wishful requests do not streamline base rate filings or reduce costs or burden of filings for the utility.

G. Annex B, Section III.G.4

In proposed new Section III.G.4, utilities must “[p]rovide comparative income statements for the HTY and the two years immediately preceding the HTY showing increases and decreases between the three periods. Provide explanations for variances that are greater than 15% of the summary level account type.” In Comments, OCA recommends expanding this requirement to the FTY and FPFTY and that revenues and expenses be summarized by account classification for the applicable industry’s Uniform System of Accounts (“USoA”). *See* OCA Comments at 8.¹¹ In Comments, IECPA recommends expanding this requirement to include comparative income statements for the five (5) years preceding the HTY. *See* IECPA Comments at 8.

Columbia opposes expanding this filing requirement as suggested by OCA and IECPA because providing the additional information is merely wishful but not necessary for parties to adequately investigate and analyze a utility’s rate increase request. Additionally, Columbia does not classify budgeted items by USoA, so it could not provide FTY and FPFTY revenues and expenses by USoA, as recommended by OCA.

Further, with regard to the qualifier in new Section III.G.4 that requires explanations for variances greater than 15% of the summary level account type, Columbia recommends that the qualifier also include a dollar amount, such as \$10,000. As such, explanations would be required for variances “greater than 15% and exceeding \$10,000.” This change would streamline this filing requirement while providing non-utility parties with information necessary to investigate the base

¹¹ OCA recommends the same language be added to Annex B, Section III.I.8. *See* OCA Comments at 10. Columbia opposes OCA’s recommendation for the same reasons as set forth in this Section II.G of these Reply Comments. Further, if OCA’s recommendation to add requirements to Annex B, Section III.G.4 is accepted, it would be duplicative to also add the requirement to Annex B, Section III.I.8.

rate filing. To the extent there is any further inquiry or unusual information is presented, non-utility parties would have the opportunity to follow up with discovery requests.

H. Annex B, Section III.H.4

In Comments, OCA recommends that utilities be required to file a full, red-lined tariff, not just the tariff pages with red-lined changes. *See* OCA Comments at 8-9. Columbia opposes this recommendation, as it defeats the loose-leaf tariff arrangement. For instance, Columbia's current tariff is 282 pages, in which all 282 pages are saved as separate Word documents in order to maintain the ability to red-line one page of the tariff without affecting the formatting or configuration of other pages of the tariff. In Columbia's last base rate case, it proposed red-lined changes to only seventeen (17) pages of its tariff. It would be extremely burdensome to have to provide the entire tariff (*i.e.* upload all of the other individual pages) when only a small percentage of pages have red-lined changes. Furthermore, utility tariffs are publicly available through the Commission's website. It will be much less burdensome for parties (that wish to do so) to obtain the utility's tariff to use in comparing red-lined changes to the context of the full tariff, than it would be for utilities to provide a full tariff that includes red-lined changes. As such, OCA's recommendation is again, merely wishful, and not designed to reduce the burden or costs of base rate filings.

I. Annex B, Section III.I.5

In Comments, OCA proposes additions to the list of charges by affiliates in order to provide, *inter alia*, the components comprising the expense and the details of the initial source and reason for the charges to assist parties in their review of the filing. *See* OCA Comments at 9-10. Columbia opposes OCA's proposal as too vague and likely duplicative. It is not known what is meant by "components" or "details of initial source of the charge" in OCA's proposal. Further,

utilities provide the cost element classifications for charges by affiliates, so information that OCA seeks appears repetitive of what is already provided. OCA's proposal is not designed to reduce the burden or costs of base rate filings and should be rejected.

J. Annex B, Section III.J.1

In Comments, OCA proposes three (3) additional requirements be added to this filing requirement and proposes to clarify another filing requirement. *See* OCA Comments at 10-11. With regard to the clarification, OCA proposes to clarify that in subsection (b), utilities be required to provide "expected changes" in employee counts during the FTY or FPFTY. *Id.* at 11. Columbia does not oppose this clarification.

In its proposed new subsections (c), (d) and (e), OCA seeks to add various requirements regarding employee counts, including *inter alia*, historic variances, reasons for changes/variances, and the provision of documentation of wages/salaries, incentive compensation/bonuses, leave, insurance, pension/thrift and the like. *Id.* Columbia opposes OCA's proposed new subsections (c), (d) and (e), as seeking information not necessary to the utility meeting its burden of proof and lacking clarity. OCA's proposed new subsections present merely wish list items, which fail to meet the PUC's goal of streamlining these regulations and reducing regulatory burden. To the extent that unusual issues present in a filing, non-utility parties can follow-up using the discovery process. As such, OCA's proposal to add subsections (c), (d) and (e) to Annex B, Section III.J.1 should be rejected.

In Comments, Aqua and NAWC question the proposed NOPR requirement that the employee data be reported by month as lacking value or practicality. *See* Aqua Comments at 14; NAWC Comments at 3. Columbia supports Aqua's and NAWC's positions on Section III.J.1 and requests that the PUC amend this section to require only test-year-end employee data.

K. Annex B, Section III.M.2(h)

In Comments, OSBA recommends expanding the requirement in Section III.M.2(h) to “[p]rovide a detailed cost analysis supporting the customer charges, showing all direct and indirect costs included. Where customer charges are differentiated within a rate schedule, provide a cost basis for the differentials. Where tariff charges are differentiated within a rate schedule, such as differentiated customer charges or declining block energy/demand charges, provide a rationale for the rate differentials along with cost or other evidence supporting the magnitude of the rate differentials.” *See* OSBA Comments at 9. Columbia notes that OSBA’s recommendation fails to streamline or lessen the burden of filing requirements. If OSBA’s proposal is accepted, however, Columbia recommends it be clarified to state that the cost basis for customer charges differentiated within a customer class be provided only *when such differentiation is presented for the first time*. Columbia’s current rate structure has existed since at least the 1980s, so it would not make sense for Columbia, in future base rate cases, to be required to justify its over 30-year-old rate structure. Further, due to its age, no such detailed cost analysis for Columbia’s current rate structure exists, and it would be quite burdensome to create one if OSBA’s proposal is accepted. Columbia’s proposed clarification to OSBA’s proposed new filing requirement is reasonable and should be accepted.

L. Other proposals

In Comments, CAUSE-PA proposes that large Electric Distribution Companies (“EDCs”) and Natural Gas Distribution Companies (“NGDCs”) be required to submit their most recent Universal Service Report (“USR”) data and that it be submitted in the same format as provided to the Commission’s Bureau of Consumer Services (“BCS”). *See* CAUSE-PA Comments at 9-11. Columbia does not oppose CAUSE-PA’s proposal but submits that it should be restricted to the

most “recently filed” USR data, as “most recent USR data” is too vague. Further, Columbia submits that it could provide the data in pdf format but not in the same format as provided to BCS because the information is entered into BCS’s system, not uploaded as an excel or other file.

Although not included in the NOPR for comment, CAUSE-PA recommends that 52 Pa. Code § 53.45 be amended to, *inter alia*, require rate increase notices be provided to customers in English and Spanish and in additional languages on the utility’s website. *See* CAUSE-PA Comments at 14-15. CAUSE-PA also proposes that utilities be required to include a plain language executive summary explaining what is in the filing and how to navigate the sections most relevant to residential customers. *Id.* at 12-13. Columbia opposes these wish list items from CAUSE-PA because they are outside the scope of this NOPR proceeding. The PUC has already issued regulations regarding notice requirements, and there is no indication that the regulations are lacking. Further, it is not clear what CAUSE-PA believes is lacking in the executive summaries that utilities already submit with base rate cases. Finally, it is not known which sections of a filing would be most relevant to residential customers or what instructions “to navigate” a filing would entail. For these reasons, CAUSE-PA’s recommendations for amendments to Section 53.34 and to further standardize the format of base rate filings should be rejected.

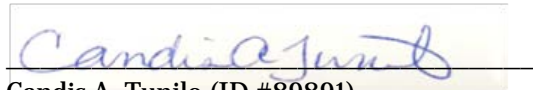
In Comments, NAWC, PAWC, Peoples Natural Gas Company LLC (“Peoples”) and Duquesne Light Company (“DLC”) requested that the Commission provide ample time – at least six (6) to nine (9) months—for utilities to incorporate the new filing requirements.¹² Columbia supports these requests for ample time for utilities to prepare for filings made using new filing requirements, to the extent new filing requirements are adopted.

¹² *See* NAWC Comments at 6; PAWC Comments at 6; Peoples Comments at 4; DLC Comments at 7.

III. CONCLUSION

Columbia Gas of Pennsylvania, Inc. thanks the Commission for this opportunity to submit Reply Comments to the NOPR and respectfully requests that the Commission adopt Columbia's recommendations in these Reply Comments as well as the recommendation in EAP's Comments and Reply Comments.

Respectfully submitted,



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Date: January 31, 2023

*Attorneys for Columbia Gas of
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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

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Dated: January 31, 2023


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