COLUMBIA GAS OF KENTUCKY, INC.
RESPONSE TO STAFF'S SECOND REQUEST FOR INFORMATION
DATED JULY 5, 2023

1. Refer to Columbia Kentucky's response to Item 1 of Commission Staff's First Request for Information (Staff's First Request).

a. Provide the number of Columbia Kentucky's residential and commercial customers to which one percent was applied to calculate the number of estimated participating customers, and the time period from which the number of customers was taken. To the extent the customer numbers do not match Columbia Kentucky's 2021 or 2022 annual report numbers, explain the use of 360 residential and 140 commercial customers as the participant estimates.

b. State whether Columbia Kentucky's estimate of one percent of customers that would participate in the program was based on the survey results or something else.

c. State how the average usage of residential and commercial customers was derived. To the extent the usage numbers do not match Columbia Kentucky's 2021 or 2022 annual report numbers, explain the use of 68.4 Mcf and 602.9 Mcf for

residential and commercial customers respectively as the usage estimates. Provide any supporting calculations.

d. The response to Item 1.e. indicates that total information technology (IT) costs to prepare the billing system utilized for the Green Path rider is $631,792. Confirm that the response to Staff's First Request, Item 4 indicates that two of the four affiliates to whom a portion of the IT programming costs was allocated had the proposed Green Path Rider programs rejected by its state regulatory commissions. In addition, state whether the IT costs have already been incurred, and if so, how these costs are to be recovered by and from affiliates whose programs were not approved.

Response:

a. The 1% was applied to 35,989 residential and 13,900 commercial customers that were identified by a consultant working on behalf of the Company to be more likely to purchase environmentally focused ("green") products. This is a subset of Columbia's total customers and therefore they will not match the total customer counts from Columbia's 2021 or 2022 annual reports. The results were rounded to 360 and 140 for convenience.

b. The results were based on classification of customers by a consultant working on behalf of the Company, which identified the number of Columbia's customers who are most likely to be interested in purchasing "green" products.

c. The 68.4 average usage for a residential customer is based on the 2021 average usage as calculated in January 2022 by Columbia.

d. Confirmed; two of the four previously identified affiliates have had their initial applications for a Green Path Rider rejected. Those two companies intend to file a revised Green Path Rider to address concerns raised by their respective commissions. The IT costs to prepare the billing system have been incurred and allocated to each of those affiliates. Columbia Gas of Kentucky will not be responsible for costs incurred by any of its affiliates for which an application for a Green Path Rider has been rejected by the relevant regulatory authority. In addition, Columbia Gas of Kentucky only intends to recover the IT costs from those customers that participate in the rider.

COLUMBIA GAS OF KENTUCKY, INC.
RESPONSE TO STAFF'S SECOND REQUEST FOR INFORMATION
DATED JULY 5, 2023

2. Refer to Columbia Kentucky's response to Staff's First Request, Item 4 which indicates that Northern Indiana Public Service Company (NIPSCO) has an approved Green Path Rider program. Explain why NIPSCO was not allocated part of the IT costs.

Response:

NIPSCO uses a separate billing system from the Columbia companies, therefore IT costs for the system utilized by Columbia Gas of Kentucky (called the "Distribution Information System," or "DIS") were not shared with NIPSCO. Likewise the costs, totaling $308,606, to modify NIPSCO's system (called the "Customer Information System," or "CIS") are not shared with the Columbia companies.

COLUMBIA GAS OF KENTUCKY, INC.
RESPONSE TO STAFF'S SECOND REQUEST FOR INFORMATION
DATED JULY 5, 2023

3. Refer to Columbia Kentucky's response to Staff's First Request, Item 4. Provide a summary of the reasoning for the rejection of each of the Green Path Rider programs proposed in Pennsylvania and Maryland, and the substance of the objection of the parties to the proposed program in Ohio that was withdrawn as a result of a settlement.

Response:

The Public Service Commission of Maryland denied the Green Path Rider filing in a letter saying that the "Green Path Rider, as proposed, is not in the public interest for Maryland because it does not serve to preserve the environmental quality within the State, including reducing Maryland's statewide greenhouse gas emissions".[1] It is Columbia Gas of Maryland's understanding that the Commission would have preferred that the Green Path Rider provide RNG and carbon offsets from within the state of Maryland. The above-mentioned letter is attached as 2022-00049 Staff Set 2-3 Attachment A.

[1] Maillog No. 242360, *Columbia Gas of Maryland, Inc. – Tariff Addition, Addition of Sheet No. 114-Green Path Rider*, Letter of Executive Secretary (MD PSC January 18, 2023).

The Public Utility Commission of Pennsylvania ("Pennsylvania PUC") expressed reservations about its jurisdictional authority to approve the program as presented by Columbia Gas of Pennsylvania. Please see *Columbia Gas of Pennsylvania, Inc. Tariff Supplement No. 343 Proposed Tariff Modifications for Inclusion of the Green Path Rider*, Docket No. R-2022-3032167, Opinion and Order (PA PUC June 15, 2023), which is attached hereto as 2022-00049 Staff Set 2-3 Attachment B.

The Staff of the Public Utilities Commission of Ohio indicated in its Staff Report[2] that it was "generally supportive of the concept"[3] of the program proposed by Columbia Gas of Ohio. However, it was the opinion of the Commission Staff that the creation of a new rider was not necessary to implement the program. Instead, the Commission Staff opined that Columbia Gas of Ohio should utilize a segment of its Tariff titled "OPTIONAL SERVICES" for the program.[4] In the filed objections to the Staff Report, seven intervenors mentioned the proposed program. The Ohio Manufacturers Association Energy Group,[5] the Kroger Company,[6] and a joint filing by the Northeast Ohio Public Energy Council

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[2] Case No. 21-0637-GA-AIR, et al., *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters*., Staff Report of Investigation (OH PUCO April 6, 2022) (available at https://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=b428c60e-18b8-44d7-8a94-3157dc5caa75).
[3] *Id.* at 50.
[4] *Id.* at 50-51.
[5] *Id.*, The Ohio Manufacturers' Association Energy Group's Objections to the Application and Objections to the Staff Report (May 6, 2022) at 10 (available at https://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=3caa01db-c62a-4ee6-b966-c2a37944fb09).
[6] *Id.*, Objections to the Staff Report and Columbia Gas of Ohio's Application by the Kroger Co. (May 6, 2022) at 14 (available at https://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=4789ddab-7570-432f-9a43-d15b2bad78f1).

and the Office of the Ohio Consumers' Counsel[7] offered general objections to the creation of several riders proposed by Columbia Gas of Ohio, including the program. The Industrial Energy Users-Ohio stated that it "supports customers rights to choose what additional products and services they receive in addition to regulated distribution service."[8] The Citizens' Utility Board of Ohio objected to the Commission Staff's position, instead opining that the program should be administered through a rider mechanism, as proposed by Columbia Gas of Ohio, in order to promote transparency and provide the Ohio Commission with the opportunity to review the details of the program.[9] The Retail Energy Supply Association ("RESA") argued Columbia Gas of Ohio did not support its application with sufficient precedent that such a mechanism could be created in a rate case under Ohio's utility regulatory framework, implying instead that the rider should have been created using a mechanism called an "alternative rate proposal."[10] RESA further opined that the proposal was related to the commodity side of Ohio's deregulated regulatory paradigm, and therefore was more appropriately offered by its members. Interstate Gas Supply, Inc. ("IGS") also argued that offering the proposed program would

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[7] *Id.*, Objections to the PUCO Staff's Report of Investigation by Northeast Ohio Public Energy Council and Office of the Ohio Consumers' Counsel (May 6, 2022) at 10 (available at https://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=38b6239f-90bb-46ff-8a21-2c3817943df5).
[8] *Id.*, Objections to the Staff Reports of Investigation and Summary of Major Issues of Industrial Energy Users-Ohio (May 6, 2022) at 5 (https://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=2009a35c-54ed-42b8-ac0b-6bba574d0066).
[9] *Id.*, The Citizens' Utility Board of Ohio's Objections to the Staff Report (May 6, 2022) at 6-7 (available at https://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=2e2ffb41-68ff-4370-9da0-ce870a42c3fe).
[10] *Id.*, Objections of The Retail Energy Supply Association (May 6, 2022) at 8 (available at https://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=ecd08c40-58b0-4614-99bf-dce0ebf1c732).

amount to re-entering the merchant function, which Columbia Gas of Ohio exited several years prior.[11] IGS further objected to the fact that Columbia Gas of Ohio selected a vendor to obtain carbon offset credits without utilizing a competitive bid process, and stated that the Ohio-specific program unreasonably infringed upon similar offerings in Ohio's competitive retail marketplace.[12]

[11] *Id.*, Objections of Interstate Gas Supply, Inc. to the Application and Staff Report of Investigation and Summary of Major Issues (May 6, 2022) at 5 (available at https://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=c4bbc58f-9db6-4d48-a158-56900790f8c9).
[12] *Id.*at 4.

STATE OF MARYLAND

PUBLIC SERVICE COMMISSION

#8, 1/18/23 AM; ML# 242360, TG-486

January 18, 2023

Theodore J. Gallagher
Assistant General Counsel
Columbia Gas of Maryland, Inc.
121 Champion Way, Suite 100
Canonsburg, PA 15317
tjgallagher@nisource.com

Dear Mr. Gallagher:

The Commission has reviewed the revised tariff pages filed on September 16, 2022 by Columbia Gas of Maryland, Inc. proposing to add a "Green Path Rider".

After considering this matter at the January 18, 2023 Administrative Meeting, the Commission found the Company's proposed Green Path Rider, as proposed, is not in the public interest for Maryland because it does not serve to preserve the environmental quality within the State, including reducing Maryland's statewide greenhouse gas emissions.

By Direction of the Commission,

/s/ Andrew S. Johnston

Andrew S. Johnston
Executive Secretary

ASJ/st

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held June 15, 2023

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
Stephen M. DeFrank, Vice Chairman, Joint Statement
Ralph V. Yanora
Kathryn L. Zerfuss, Joint Statement
John F. Coleman, Jr.

Pennsylvania Public Utility Commission R-2022-3032167

v.

Columbia Gas of Pennsylvania, Inc.,
Tariff Supplement No. 343 Proposed Tariff
Modifications for Inclusion of the Green Path Rider

OPINION AND ORDER

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BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of the Office of Consumer Advocate (OCA) and the Retail Energy Supply Association (RESA), Shipley Choice, LLC d/b/a Shipley Energy and NRG Energy, Inc. (collectively, RESA/NGS) filed on April 26, 2023, to the Recommended Decision (R.D.) of Deputy Chief Administrative Law Judge (DCALJ) Christopher P. Pell and Administrative Law Judge (ALJ) John M. Coogan (collectively, the ALJs), issued on April 19, 2023, in the above-captioned proceeding. Columbia Gas of Pennsylvania, Inc. (Columbia or the Company) filed Replies to Exceptions on May 1, 2023.

Also before the Commission for consideration and disposition is the Joint Petition for Nonunanimous Settlement (Joint Petition, Settlement or JPNUS) and the associated Statements in Support of Settlement filed by Columbia, the Bureau of Investigation and Enforcement (I&E), and the Office of Small Business Advocate (OSBA) on March 22, 2023, in support of the Commission's adoption of Columbia's proposed Tariff Supplement No. 343 to Tariff Gas Pa. P.U.C. No. 9 (Tariff Supplement No. 343),[1] which the ALJs recommended be approved without modification.[2] R.D. at 113.

Although Columbia, I&E, and the OSBA proposed a nonunanimous settlement of the instant proceeding, because we conclude, *inter alia*, that Columbia's

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[1] Tariff Supplement No. 343 proposes a tariff rider, described as the Green Path Rider (GPR) under which Columbia would be authorized to charge participating customers for Columbia's purchase of Renewable Natural Gas (RNG) attributes and carbon offsets which would be retired in an amount based upon either 50% or 100% of the customers' gas consumption. *See*, Tariff Supplement No. 343 at 1.

[2] The ALJs recommended approval of the JPNUS notwithstanding the Comments in Opposition of the OCA, the RESA/NGS Parties and Letter in Opposition of CAUSE-PA which were filed on March 29, 2023.

proposed tariff modification, as set forth in Tariff Supplement No. 343, constitutes an offering of a "below the line" non-tariffed product or service which is not reasonable or necessary for the provision of utility service as required by Chapter 13 and the provisions of the Pennsylvania Public Utility Code (Code), we conclude that Tariff Supplement No. 343 is neither reasonable and necessary nor in the public interest and must be denied. *See*, Chapter 13, Subpart A of the Code (pertaining to rates), 66 Pa. C.S. § 1301, et seq.

While we support utility initiatives designed to address the real concerns for reduction of carbon emissions, whether such initiatives may be appropriately sanctioned as a Tariffed Rate, the costs of which to be borne by ratepayers, is a separate question under the Code. Despite the non-unanimous settlement proposed here, as a matter of law under the Code, the Parties' agreement, whether unanimous or not, cannot render a non-tariffed product or service to be a tariffed product or service. *See*, *Id*. Therefore, we further conclude that because Tariff Supplement No. 343, the underlying basis for the proposed Joint Petition, is deficient as a matter of law, the Joint Petition should also be denied. For the reasons stated more fully below, we conclude that Columbia's proposed GPR is neither reasonable and necessary for the provision of utility service nor in the public interest. Therefore, we shall grant the Exceptions, in part, and deny, them, in part; decline to adopt the Recommended Decision; and deny the Joint Petition.

I. Background

Columbia is a public utility and natural gas distribution company (NGDC), as those terms are defined in the Code, 66 Pa. C.S. §§ 102 and 2202, providing natural gas distribution, sales, transportation, and/or supplier of last resort services to approximately 440,000 retail customers in portions of twenty-six counties in western, northwestern, southern, and central Pennsylvania. Columbia is a wholly-owned subsidiary of NiSource Gas Distribution Group, Inc., which is a subsidiary of

NiSource, Inc. (NiSource). NiSource acquired the Columbia Energy Group and its subsidiaries on November 1, 2000. Columbia M.B. at 1.

Based upon Columbia's determination of a customer need for offerings which help to achieve decarbonization goals, Columbia proposed the GPR tariff rider as a voluntary pilot program. Columbia M.B. at 1-2.

A. Columbia's Proposed Tariff Supplement No. 343

Pursuant to Section 1308 of the Code, Columbia proposes a new tariff rate seeking Commission approval for the rate to be charged to customers under the GPR pilot program. 66 Pa. C.S. § 1308; *See*, 52 Pa. Code §53.52(a)(pertaining to information furnished with filings of rate changes). As proposed, Columbia's GPR is a fee based, opt-in program that, the Company alleged, will respond to Columbia's customers' alleged interest in an option to reduce some or all of their emissions related to their natural gas usage. *See*, Tariff Supplement No. 343 at pp. 1-17.

Under Columbia's proposed pilot program, renewable natural gas (RNG) environmental attributes and carbon offsets will be purchased by Columbia from a third-party supplier and retired in an amount equal to the customer's natural gas usage. The customer may elect either a 100% or 50% offset of total gas usage emissions.[3] Under the pilot program the rate charged to customers opting into the program will be based upon an as yet unspecified additional fee per therm that reflects the customer's

[3] Columbia Exhibit 1, Attachment A provides the proposed GPR language which describes the GPR as an option for customers to "reduce their emissions." Columbia states that if the GPR is approved, Columbia will revise the description of the GPR contained within the GPR tariff page, under "Character of Service," to clarify that the product being purchased is made up of 5% RNG environmental attributes and 95% carbon offsets, and change "reduce their emissions" to "offset their emissions." Columbia St. No. 1-R at 4.

portion of the cost of the RNG environmental attributes and carbon offsets purchased by Columbia from the third-party supplier. Columbia stressed that participation in the pilot program will be completely voluntary. Columbia further explained that default-service customers billed by the Company under Rate RSS, Rate SGSS, Rate LGSS, and Rate MLSS would be eligible to participate in the program, provided they are not in arrears, do not participate in the Customer Assistance Program (CAP[4]), and their projected or actual annual usage is 540,000 therms or less. Columbia St. 1 at 4; Columbia M.B. at 2.

B. Renewable Natural Gas Attributes and Carbon Offsets vs. Renewable Natural Gas Projects

As a general matter, RNG attributes and carbon offsets must be understood in the context of the global initiative to reduce carbon emissions. The creation of "carbon markets" refers to the voluntary buying and selling of carbon offsets or "credits." Carbon markets can be understood as the trading systems in which carbon credits are bought and sold. Individuals or companies can utilize the carbon markets to compensate or to offset their greenhouse gas emissions by purchasing carbon credits from entities that remove or reduce greenhouse gas emissions through various environmental projects. Upon purchase of the carbon offsets or credits, the credits are "retired" from the market so that eligible "credits" are utilized only once. OSBA St. No. 1 at 5-6, Columbia St. No. 1-R at 17-18, Columbia St. No. 2 at 4-5.

RNG is a product that results from projects designed to capture methane or natural gas waste from landfills, manure, and other waste streams. To be clear, Columbia's program *does not* deliver RNG to its customers. Instead, the Company proposes to purchase the "environmental attributes" associated with RNG. Specifically,

[4] Columbia's CAP is a universal service program that provides qualifying low-income affordable payment options and arrearage forgiveness. Columbia M.B. at 6, n.3.

where a project produces RNG, the physical delivery of the product is separated from its "environmental attributes" to enable the *RNG attributes* to be purchased so that parties which desire to offset (*not reduce*) their overall carbon emissions may pay a price to do so. Similarly, carbon offsets represent the purchase of a certificate that documents the specific level of carbon reduction derived from a given project. Carbon offsets can reflect landfill gas, forestry, wetlands renewal, and other sources of activities that promise to deliver "offsets" to, *as opposed to a reduction in*, the purchasers actual carbon emissions. *See*, Columbia St. No. 2 at 4; OCA M.B. at 7, fn. 2.

As proposed, Columbia's GPR would establish a pilot program by which Columbia's customers could voluntarily elect to pay an additional fee for Columbia to purchase products which represent offsets to the carbon emissions of the customer's use of natural gas provided by Columbia. The customer's actual use of natural gas and carbon emissions would not be reduced. Under the pilot program, the customer would not be utilizing renewable energy in any way. For example, if a customer were to purchase the use of RNG to replace the natural gas service provided by Columbia, such purchase would directly reduce the customers' carbon emissions. In contrast, where the customer purchases RNG attributes and carbon offsets, the customer's own carbon emissions would not be reduced. As such, RNG attributes and carbon offsets represent the right to claim reductions to carbon emissions resulting from environmental projects occurring at some other location. *Id*.

In the context of Columbia's proposed GPR, Columbia proposes to purchase carbon offsets/credits and RNG attributes from a separate third-party entity in the business of selling such products. Columbia proposes to offer their customers the ability to pay a fee for a portion of the carbon offsets and RNG attributes purchased by Columbia in an amount sufficient to offset some or all of the customers' own carbon emissions from use of natural gas provided by Columbia. Columbia is not proposing to sell the customer's carbon offsets or RNG attributes. Rather, Columbia plans to purchase

and retire a set number of attributes and offsets in an amount equal to the customer's total use of natural gas (by a factor of 50% or 100%). *Id.*

II. History of the Proceeding

On April 26, 2022, Columbia filed its Tariff Supplement No. 343 at Docket No. R-2022-3032167, with an effective date of January 1, 2023. Tariff Supplement No. 343 proposed the implementation of a five-year pilot program, called the GPR, that would allow customers an option to reduce some or all of their emissions related to their natural gas usage.

Also on April 26, 2022, Columbia filed a Motion to Consolidate Tariff Supplement No. 343 with its then pending base rate case filed at Docket No. R-2022-3031211 (2022 Rate Case), so that both filings could be litigated as part of Columbia's base rate proceeding. Columbia's 2022 Rate Case was assigned to DCALJ Pell and ALJ Coogan.

On May 9, 2022, the OCA filed a Public Statement and a Formal Complaint (OCA Complaint) against Tariff Supplement No. 343. The OCA Complaint was docketed at C-2022-3032404.

On May 10, 2022, the OCA filed its Answer to the Motion to Consolidate.

On May 12, 2022, the Commission issued an Order denying Columbia's Motion to Consolidate Tariff Supplement No. 343 with its then pending 2022 Rate Case, finding that such consolidation would not provide an adequate process for review of Columbia's proposed GPR.

On May 18, 2022, the RESA/NGS Parties filed a Formal Complaint (RESA/NGS Complaint) against Tariff Supplement No. 343. The RESA/NGS Complaint was docketed at C-2022-3032550.

On May 19, 2022, I&E filed a Notice of Appearance. Also on May 19, 2022, the OSBA filed a Notice of Appearance and a Notice of Intervention, Public Statement and Verification.

On June 14, 2022, Pennsylvania State University (PSU) filed a Petition to Intervene.

By Order entered June 16, 2022, the Commission suspended the implementation of Tariff Supplement No. 343 by operation of law, pursuant to 66 Pa. C.S. § 1308(b), until July 1, 2023, unless permitted by Commission Order to become effective at an earlier date, and instituted an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations proposed. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness, and reasonableness of Columbia's existing rates, rules, and regulations. The Commission assigned the matter to the Office of Administrative Law Judge (OALJ) for the prompt scheduling of such hearings and issuance of a Recommended Decision.

On June 30, 2022, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene.

On July 6, 2022, the ALJs conducted a telephonic prehearing conference in which various procedural matters were discussed and a litigation schedule was established. Columbia, I&E, the OCA, the OSBA, PSU, the RESA/NGS Parties, and CAUSE-PA were present and represented by counsel.

On July 7, 2022, Columbia submitted an unopposed Motion for Protective Order pursuant to 52 Pa. Code § 5.365(a), which was granted on July 15, 2022.

On December 1, 2022, I&E, the OCA, the OSBA, PSU, and the RESA/NGS Parties served Direct Testimony

On January 9, 2023, Columbia, the OCA, and the OSBA served Rebuttal Testimony.

On February 6, 2023, Columbia, I&E, the OCA, the OSBA, PSU, and the RESA/NGS Parties served Surrebuttal Testimony.

On February 13, 2023, Columbia served Rejoinder Testimony.

On February 15, 2023, an evidentiary hearing was held. During the hearing, the OSBA cross-examined two Columbia witnesses. All other witnesses were excused from appearing at the hearing since no parties requested to cross examine them, and also because the ALJs did not have questions for them. Columbia, I&E, the OCA, the OSBA, PSU, and the RESA/NGS Parties each moved to have their witnesses' testimonies and exhibits entered into the record. As there were no objections, all Parties' testimonies and exhibits were admitted into the record during the hearing.

On March 10, 2023, Columbia, the OCA, PSU, and the RESA/NGS Parties filed Main Briefs.[5]

[5] On that same day, CAUSE-PA, I&E and OSBA each filed letters stating that they would not be filing Main Briefs.

On March 22, 2023, Columbia, the OCA, the RESA/NGS Parties, and CAUSE-PA filed Reply Briefs.[6]

Also on March 22, 2023, Columbia, I&E, and the OSBA filed the Joint Petition and Statements in Support of the Settlement. PSU indicated that it did not oppose the Settlement.

On March 29, 2023, the OCA and the RESA/NGS Parties each filed Comments opposing the Settlement. Also, on March 29, 2023, CAUSE-PA filed a Letter in opposition to the Settlement.

In their Recommended Decision, issued by the Commission on April 19, 2023, DCALJ Pell and ALJ Coogan recommended that the Commission approve the Joint Petition in its entirety, without modification, finding it to be in the public interest and supported by substantial evidence. The ALJs also recommended that Columbia be permitted to file a tariff supplement incorporating the terms of Tariff Supplement No. 343, as modified by the Joint Petition.

As previously noted, the OCA and the RESA/NGS Parties filed Exceptions to the Recommended Decision on April 26, 2023. Columbia filed Replies to Exceptions on May 1, 2023.

III. Legal Standards

We advise the Parties that any issue or argument that we do not specifically address herein has been duly considered and will be denied without further discussion.

[6] On that same day, I&E, PSU and OSBA each filed letters stating that they would not be filing Reply Briefs.

The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corporation v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally, Univ. of Pa. v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

A. Chapter 13, Subchapter A (Regarding Rates) and General Ratemaking Principles

Because our disposition must be consistent with the mandatory provisions of Chapter 13, it is also necessary that consideration of the issues presented be rendered against the backdrop of both the mandatory statutory provisions of Chapter 13, Subchapter A (regarding rates) and the bedrock rate making principles regarding rate structure and rate design which inform our analysis of the present proceeding.

1. Chapter 13, Subchapter A (Regarding Rates)

Section 1301 of the Code establishes the requirement that every rate be "reasonable" in the circumstances. Section 1301 provides, in pertinent part:

> **§ 1301. Rates to be "just and reasonable."**
>
> (a) Regulation. -- Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be "just and reasonable", and in conformity with regulations or orders of the commission…

66 Pa. C.S. § 1301(a).

In a rate proceeding, the public utility seeking a rate increase traditionally submits other supporting evidence relating to the development of specific rate schedules under each customer class. *See, Pa. PUC, et al. v. Columbia Gas of Pennsylvania, Inc.,*

Docket No. R-2020-3018835, et al. (Order entered February 19, 2021) (*Columbia Order*) at 185 (citing *Lloyd*, 904 A.2d at 1015 (Pa. Cmwlth. 2006) (*Lloyd*); 66 Pa. C.S. §§ 1301, 1304). Section 1304 provides, in pertinent part:

> No public utility shall, as to rates, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation, to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service….

66 Pa. C.S. § 1304.

A utility seeking a change to a rate in effect is required to file for Commission approval in advance of the proposed effective date of the change in rate, [pursuant to Section 1308(pertaining to voluntary changes in rates).] Under Section 1308, a utility may seek a voluntary change in a tariff rate, either by filing a new rate under Section 1308(b) or by filing a general rate increase under Section 1308(d). When a utility voluntarily submits a tariff stating a new rate which is not a general rate increase, Section 1308(b) directs a hearing to determine the lawfulness of the proposed rate. *See*, 1308(b) (hearing and suspension of rate change). 66 Pa. C.S. § 1308(b).

For general rate increases, Section 1308(d) provides the procedures for changing rates, the time limitations for the suspension of the new rates, and the time limitations on the Commission's actions. 66 Pa. C.S. § 1308(d) (relating to general rate increases).

Section 1308(a) establishes the general rule that existing Commission-approved tariff rates remain in effect until a new Commission-approved tariff rate takes effect. Section 1308(a) provides in pertinent part:

§ 1308. Voluntary changes in rates.

> **(a) General rule.--**Unless the commission otherwise orders, no public utility shall make any change in any existing and duly established rate, except after 60 days notice to the commission, which notice shall plainly state the changes proposed to be made in the rates then in force, and the time when the changed rates will go into effect. The public utility shall also give such notice of the proposed changes to other interested persons as the commission in its discretion may direct. Such notices regarding the **proposed changes which are provided to the utility's customers shall be in plain understandable language as the commission shall prescribe. All proposed changes shall be shown by filing new tariffs, or supplements to existing tariffs filed and in force at the time**. The commission, for good cause shown, may allow changes in rates, without requiring the 60 days notice, under such conditions as it may prescribe.

66 Pa. C.S. § 1308(a) (emphasis added) (requiring any changes to the effective tariff rate to be pursuant to filing with 60 days' notice in advance of any proposed change, which filing plainly states the change proposed to the rates then in force, and the time when the changes to rates will go into effect).

Section 1308(d) further sets forth the mandatory procedure for an investigation of any proposed rate increase. Section 1308(d) provides in pertinent part:

> **(d) General rate increases.--**Whenever there is filed with the commission by any public utility described in paragraph (1)(i), (ii), (vi) or (vii) of the definition of "public utility" in section 102 (relating to definitions), and such other public utility as the commission may by rule or regulation direct, **any tariff stating a new rate which constitutes a general rate increase, the commission shall promptly enter into an investigation and analysis of said tariff filing and may by order setting forth its reasons therefor,**

> **upon complaint or upon its own motion, upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate**, and the commission may, at any time by vote of a majority of the members of the commission serving in accordance with law, permit such tariff to become effective, except that absent such order such tariff shall be suspended for a period not to exceed seven months from the time such rate would otherwise become effective.

66 Pa. C.S. § 1308(d)(emphasis added).

2. General Ratemaking Principles

The Code gives the Commission broad authority and responsibility to ensure that the rates charged by public utilities are "just and reasonable" and not unduly discriminatory. *See*, 66 Pa. C.S. §§ 1301, 1304. Pursuant to this "just and reasonable" standard, a public utility may obtain "a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers[,] as well as a reasonable rate of return on its investment." *City of Lancaster (Sewer Fund) v. Pa. PUC*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002) (*City of Lancaster*). There is no single way to arrive at "just and reasonable" rates. "The [Commission] has broad discretion in determining whether rates are reasonable" and "is vested with discretion to decide what factors it will consider in setting or evaluating a utility's rates." *Popowsky v. Pa. PUC*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996) (*Popowsky*). The Commission is required to investigate all general rate increase filings. *Popowsky*, 683 A.2d at 961.

3. Cost of Service and Customer Class

It is well settled that the "polestar" of ratemaking concerns is the public utility's "cost of providing service (COS)." (*Columbia Order*) at 46, n.17 (citing *Lloyd*, 904 A.2d at 1010, 1019-21). Inherent in the "cost of providing service" principle of

ratemaking is the recognition that public utilities are natural monopolies and that the Commission's oversight through cost-of-service ratemaking regulation serves as a proxy for a competitive market in appropriately restraining, or exerting downward pressure on, the profit-maximizing prices a monopoly could otherwise charge in the absence of price regulation. *Columbia Order* at 46, n.17. Other important ratemaking concerns include quality of service,[7] rate gradualism,[8] and rate affordability.[9] *Columbia Order* at 46-47.

Once the revenue requirement or COS is determined, the next steps traditionally are to allocate these costs to customer classes and then design the specific rates. The utility will typically propose the appropriate "class cost of service," determined by the utility's provision of service to different customer classes. In general rate increases of more than $1 million, a public utility traditionally submits an allocated class cost of service study (COSS) for the test year, showing the allocation of the overall COS to each customer class based on certain allocation method(s). As previously noted, the public utility traditionally submits other supporting evidence relating to the development of specific rate schedules under each customer class. *See, Columbia Order* at 185 (citing *Lloyd,* 904 A.2d at 1015; 66 Pa. C.S. §§ 1301, 1304).

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[7] *See*, 66 Pa. C.S. § 523(a)-(b) (Commission shall consider the efficiency, effectiveness and adequacy of service when determining "just and reasonable" rates and shall give effect to this section by making such adjustments to specific components of the utility's claim cost of service as it may determine to be proper and appropriate); *see also* 66 Pa. C.S. § 526(a) (Commission given authority to reject, in whole or in part, a public utility's rate increase request upon finding that service rendered is inadequate in that it fails to meet quantity or quality for the type of service provided).

[8] *See, Lloyd*, 904 A.2d at 1020 (explaining that gradualism is the principle under which utility rates are gradually increased to avoid rate shock, as part of what is overall considered a reasonable rate under the circumstances and is permitted in implementing large rate increases).

[9] *See, Pa. PUC et al. v. Twin Lakes Utilities, Inc*., Docket No. R-2019-3010958 (Order entered March 26, 2020) at 48, 80 (the ALJ did not err in considering evidence relating to the various quality of service and rate affordability issues in the proceeding and factoring in such evidence as part of her overall determination on which expert witnesses' cost of equity to adopt for setting "just and reasonable" rates).

4. Burden of Proof for Rate Increase is Born by the Utility

The burden of proving the justness and reasonableness of a rate is placed on the public utility. 66 Pa. C.S. § 315(a) (relating to reasonableness of rates). The evidence necessary to meet this burden of proof must be substantial. *Lower Frederick Twp. Water Co. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).

5. Commission Review of the Recommended Decision is De Novo

The Parties are reminded that the Commission's scope of review of the ALJs' Recommended Decision regarding approval of rates extends to any matter deemed relevant to the Commission. 66 Pa. C.S. § 335(a); *See, Romeo v. Pa. PUC*, 154 A.3rd 422 (Pa. Cmwlth. 2017).

B. Commission Authority to Weigh Environmental Impact

The Commission has a responsibility to weigh the environmental impact of proposals arising under the Code. See, *Township of Marple v. Pennsylvania Public Utility Commission*, No. 319 C.D. 2022 (filed March 9, 2023) (*Township of Marple*). In *Township of Marple*, the Commonwealth Court held that the source of the Commission's responsibility to weigh the environmental impact of proposals under the Code is article I, section 27 of the Pennsylvania Constitution. *Township of Marple* at 11, citing Pa. CONST. art. I, §27 (known as the Environmental Rights Amendment).

IV. Discussion

The ALJs made nineteen Findings of Fact and reached seventeen Conclusions of Law. I.D. at 4-7, 111-13. We hereby adopt the said findings and conclusions, unless they are expressly rejected, or rejected by necessary implication from our disposition of proposed Tariff Supplement No. 343 and the Exceptions.

Because we conclude that the disposition of this matter turns on our analysis of the legal sufficiency of Columbia's proposed Tariff Supplement No. 343, we shall first address Tariff Supplement No. 343, and then turn to our disposition of the Exceptions, as deemed relevant, set forth below.

A. Commission Jurisdiction to Approve Carbon Emissions Offset Products as a Tariffed Product/Service

Columbia describes the proposal of Tariff Supplement No. 343 as "another step by which Columbia will support the development of offerings that further decarbonization goals" by enabling customers to "attribute" some or all of their monthly natural gas usage to renewable resources. *See*, Tariff Supplement No. 343 at 7.

As proposed by Columbia, Tariff Supplement No. 343 presents a case of first impression regarding seeking the Commission's approval to treat carbon emissions offset products as a tariffed product/service. Tariff Supplement No. 343 is also unique as it is designed to create a "rider" or sliding scale/adjustable rate to reflect specific rates charged, and costs incurred, associated with Columbia offering its customers the option to pay a fee for environmental offsets to the customer's carbon emissions associated with the use of the natural gas provided by Columbia, which will change annually. If the Commission were to approve Tariff Supplement No. 343, Columbia would be authorized, from an accounting standpoint, to treat the revenue and costs associated with the program

as "above the line," as necessary for the provision of utility service. It is significant that, if approved, the costs associated with the program would be recoverable as part of rate base from Columbia's customers, even if restricted to customers who voluntarily participate in the offering/program.

As noted, this case presents a question of first impression. To date, the question of whether the purchase of carbon emission offset products, including RNG attributes and carbon offsets, should be included as a tariffed product/service has never previously come before the Commission.[10] In our analysis of whether to assert jurisdiction over the proposed "decarbonization" product offering in the gas industry, we consider our relevant jurisdiction over renewable energy initiatives in the context of the electric industry.

The Pennsylvania General Assembly (General Assembly) has expressly conferred jurisdiction to the Commission to address renewable energy goals within the context of electric utility service under the Alternative Energy Portfolio Standards Act, 73 Pa. Stat. Ann. §§ 1648.1-1648.8 (AEPS Act). We note, however, the General Assembly has made no similar express delegation of jurisdiction in the context of the natural gas industry.

For example, the AEPS Act represents the General Assembly's clearly stated delegation of jurisdiction for the Commission to oversee the promotion of renewable electric energy sources within the Commonwealth. The AEPS Act was an express delegation regarding the oversight of programs in the electric power industry intended to incentivize alternative energy producers to generate renewable energy

[10] As Columbia noted, a tariff offering which proposes the "sale" of carbon emissions offsets to customers as part of tariffed rates is unprecedented in the Commonwealth. *See*, Columbia M.B. at 2 ("The Green Path Rider pilot program…is the first program of its kind being proposed in Pennsylvania.").

utilizing one of the approved alternative energy production methods, such as wind and solar power, and sell any excess renewable energy not used to electric distribution companies. *See,* AEPS Act at Section 2, 73 Pa. Stat. Ann. § 1648.2.

Notably, the General Assembly did not delegate exclusive authority to the Commission under the AEPS Act. Rather, the General Assembly authorized *interagency* responsibility for environmental and health and safety standards. Specifically, Section 7(b) of the AEPS Act, grants the Pennsylvania Department of Environmental Protection (DEP) the power to *ensure and verify that all qualified alternative energy sources meet all applicable environmental standards and eligibility standards set forth in the AEPS Act*, in recognition of the unique expertise required for verification of the environmental standards involved. *See*, 73 Pa. Stat. Ann. § 1648.7(b) (pertaining to definition of "alternative energy sources")(emphasis added).

While the Commission retains broad discretion to determine rates, and has for example, approved RNG energy projects within the Commonwealth,[11] we nevertheless give pause when considering whether to assert jurisdiction over a new type of offering, involving untested environmental/renewable energy policy seeking approval to offer carbon emission offset products as a tariffed good/service for purchase by the gas utility's customers. We question whether assertion of jurisdiction is proper where, unlike the electric supply market, there is no legislative mandate for meeting "decarbonization goals" in the natural gas market. *See*, 66 Pa. C.S. §§ 1301, 1304; *City of Lancaster*

[11] *See*, Columbia Exhibit EE-3, Attachment A page 21, citing, *Pa. PUC et al. v. Philadelphia Gas Works* at R-2021-3023970 and *Pa. PUC, et al. v. UGI-Gas* at R-2021-3025652. Notably, the RNG projects referenced by Columbia are distinguishable from the present proposal seeking tariff treatment for non-jurisdictional products. The approved RNG projects at the referenced dockets pertain to the provision gas service within the Commonwealth and propose to directly reduce carbon emissions within the Commonwealth.

(Pertaining to the Commission's broad power to consider any relevant factors in determining rates).

The General Assembly's express grant of jurisdiction to the Commission to oversee renewable energy initiatives involving the provision of electric service also gives us pause where the Legislature clearly indicated in the AEPS Act, that the renewable electric energy projects were to be *Commonwealth-centered* initiatives with *Commonwealth-centered* environmental benefits to be derived from any such initiatives. We note that, even if Columbia's proposed Tariff Supplement No. 343 promises some "global" reduction in carbon emissions, under Tariff Supplement No. 343, such reductions are not promised (or likely) to be derived from Commonwealth-based initiatives nor produce Commonwealth-based benefits. *See*, Tariff Supplement No. 343.

Specifically, the Company promises only that the projects from which the carbon offsets derive would be limited to North America. The RNG attributes would be obtained from projects anywhere in the world. *See*, JPNUS at para. 27. As proposed, the GPR will retire carbon emission offsets generated somewhere in North America, and RNG attributes from somewhere in the world, in a "yet to be determined" amount equal to the percentage of usage designated by the Columbia customers which choose to participate in the GPR. *See*, *generally*, JPNUS.

For example, Columbia's purchase of RNG attributes and carbon offsets from a third-party supplier would reduce neither the carbon emissions of Columbia's customers nor carbon emissions in the Commonwealth. In addition, Columbia's GPR relies upon a contract with a third-party to provide the RNG attributes and carbon offsets with no evidence that the purchased right to claim reductions in carbon emissions would result from projects located in the Commonwealth.

We further note our concern regarding the assertion of jurisdiction to approve environmental carbon offset products for which the Commission possesses no special expertise. Columbia's proposal involves the approval for tariffed treatment of carbon emissions offset products which implicitly suggests the Commission's sanctioning of the product for the environmental purposes it purports to serve. Unlike under the AEPS Act, in the present case there is no interagency jurisdiction regarding the gas utility industry by which the DEP would ensure and verify that the proposed carbon emissions offset products would meet any relevant environmental standards. The lack of DEP oversight for verification of the environmental standards applicable to the proposed products weighs against our approval of Tariff Supplement No 343.

In summary, while we do not expressly conclude that the Commission lacks jurisdiction to approve Tariff Supplement No. 343, we find that there are serious policy considerations and facts which raise jurisdictional questions which weigh against its approval.

B. Legal Sufficiency of Tariff Supplement No. 343

The legal sufficiency of proposed Tariff Supplement No. 343 is a separate matter from the Commission's consideration of the approval of the JPNUS. Without regard to a proposed settlement which would adopt the proposed tariff rate, a proposed Tariff Supplement is reviewed for sufficiency under, and must satisfy, the mandatory provisions of Chapter 13. Upon review, as discussed more fully, *infra*, we conclude that proposed Tariff Supplement No. 343 is insufficient under Chapter 13, where the proposal does not set forth a "rate" with sufficient specificity and where the proposed offering is for a product which is not "used or useful" in the provision of gas distribution service. *See, generally*, 66 Pa. C. S. § 1301 (providing that all rates are to be just and reasonable).

As to the proposed rate, Tariff Supplement No. 343 does not set forth a specific rate, *per se.*[12] Rather, Columbia would fix rates based upon the negotiated fixed price of the carbon emission offsets which Columbia purchases from a third party. Each year, an annual adjustment would occur when Columbia renegotiates the rate with the third party. As proposed, the rate would be shown on the customer's bill based on a "per therm" usage cost. Columbia estimates that the Company will incur approximately $186,000 in one-time capital costs for infrastructure technology (IT) programming, and approximately $33,500 in annual operating and maintenance (O&M) expenses for customer education associated with the GPR, which is proposed to be apportioned among the participating customers. *See*, Tariff Supplement No. 343; Columbia Exh. 1 at 6; Columbia St. No. 1 at 7; Columbia M.B. at 10.

As a proposed change in approved tariff rates, Columbia's proposed Tariff Supplement No. 343 is reviewable under Sections 1308, *supra*, read in conjunction with Section 1307 of the Code.

Section 1308 provides, in pertinent part, as follows:

> [T]he **proposed changes which are provided to the utility's customers shall be in plain understandable language as the commission shall prescribe.** All proposed changes shall

[12] We conclude, as discussed more fully, *infra*, at Section V. A. 3., that Tariff Supplement No. 343 does not propose a specific rate and is, therefore, not just and reasonable. As noted by the OCA, the "rate" to be charged for the optional service proposed under Tariff Supplement No. 343 is neither known or firm, nor knowable, where the Company's proposed method for recovery of costs, which would spread the initial costs and ongoing operating expense associated with the GPR among the customers which elect to participate. *See*, OCA Exc. at 1. Since the number of customers to participate is an unknown variable, there can be no "firm" or known rate for the proposed GPR tariff rate.

> be shown by filing new tariffs, or supplements to existing tariffs filed and in force at the time.

66 Pa. C. S. § 1308.

Given that Section 1308 requires a specified rate, which once adopted, remains in effect, Tariff Supplement No. 343 does not satisfy the criteria under Section 1308. Columbia's Tariff Supplement No. 343 proposes a yet to be determined rate based on Columbia's negotiated contract price with a third party, as well as costs yet to be determined and allocated among the yet to be determined group of customers which may opt to participate in the GPR. Therefore, as to the proposed rate, Tariff Supplement No. 343 is clearly deficient under Section 1308.

However, a sliding scale or adjustable rate is authorized under Section 1307 authority, which provides:

> Any public utility [with enumerated exceptions] may establish a sliding scale of rates or **such other method for the automatic adjustment of the rates of the public utility as shall provide a just and reasonable return on the rate base of such public utility**, to be determined upon such equitable or reasonable basis as shall provide such fair returns.

66 Pa. C. S. §1307 (emphasis added).

Section 1307 was designed to allow the rapid recovery of certain utility costs and investments outside the base rate case by means of the separate rider or adjustment. Section 1307, historically, is the vehicle by which a utility's fluctuating operating costs could be recovered more promptly, to prevent "regulatory lag." *See*, generally, *National Fuel Gas Distribution Corp. v. Pa. PUC*, 473 A. 2d 1109 (Pa. Commwlth 1984). For example, adjustments approved under Section 1307 include

items like fuel cost adjustments, state tax adjustment surcharge (approving separate billing for state tax). Notably, the Code expressly approves certain automatic adjustment mechanisms, such as distribution improvement charges, electric default service charges, and smart meter technology. *See*, 66 Pa. C.S. §§ 1353, 2807(e), 2807(f)(7).[13]

Section 1307 expressly requires that the automatic adjustment of the rates of a utility "shall provide a **just and reasonable return on the rate base** of such public utility." As a practical matter, the approval of Tariff Supplement No. 343 would result in the costs associated with the proposal being approved for inclusion in the Company's jurisdictional rate base. Therefore, whatever rate is to be automatically adjusted, such rate must be properly included in the utility's rate base.

"Rate base" is defined as "[t]the value of the whole or any part of the property of a public utility which is **used and useful in public service**." 66 Pa. C.S. § 102 (pertaining to definitions) (emphasis added). The "major consideration in determining utility rates is to establish rates which do not produce excessive returns, but which do afford the utility an opportunity to earn a fair and reasonable return on property **used and useful in the public service**." *Pa. Gas & Water Co. v. Pa. PUC*, 427, 470 A.2d 1066, 1072 (1984 Pa. Commw.) citing *Western Pennsylvania Water Company v.*

[13] We note that Section 1307 is typically intended to permit adjustments to rates based upon reasonable and necessary costs imposed upon the utility. Generally, the mechanism for approving adjustable rates under Section 1307 is limited in scope and not to be employed as a universally available alternative to a rate base proceeding. *See*, *Popowsky v. Pa. PUC*, 869 A.2d 1144 (Pa. Cmwlth. 2005)(Under Section 1307 "[T]he very function of the typical automatic adjustment clause is to permit rapid recovery of a specific *identifiable* expense item." *Popowsky* at 588 (emphasis in original) (citations omitted)).

In the present case, the costs are negotiated by Columbia, and therefore are not the typical costs beyond the utility's control which would be addressed under Section 1307 (*i.e.*, fuels costs, tax surcharge etc.).

Pa. PUC, 54 Pa. Commonwealth Ct. 187, 422 A.2d 906 (1980)(emphasis added); *See also*, *City of Pittsburgh v. Pa. PUC*, 247, 400 A.2d 672, 674 (1979)

In the present case, Columbia proposes Tariff Supplement No. 343 as a "pass through" of the costs of the "property" Columbia would purchase (the RNG attributes and carbon offsets), to enable the individual customers to claim the offset of their own carbon emissions.[14] As such, unlike fuel costs and other costs necessary for the provision of service, Columbia's purchase of the carbon emissions offsets is *not part of Columbia's rate base*. The purchase of such offsets is not "used or useful" in Columbia's provision of gas distribution utility service. Therefore, Columbia's proposed Tariff Supplement No. 343 fails to establish a rate which qualifies as a tariffed rate under Section 1307.

Under the "used and useful" standard for inclusion in rate base, it becomes evident that Tariff Supplement No. 343 pertains to a "below the line" service which, albeit a desirable option for some customers, with a laudable goal of contributing to global decarbonization efforts, is not *necessary* for Columbia's provision of public utility service.[15] In fact, the offering, as proposed by Columbia is more like a utility's non-tariffed offering of goods or services such as the sale of appliances. Such items are considered "below the line" or excluded from rates as they are unnecessary to the provision of utility service.

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[14] We note that Columbia does not appear to propose to technically "sell" the carbon emissions offsets to the customer but plans to pass through the costs of purchasing and retiring such offsets in an amount equal to the customer's elected percentage of gas usage.

[15] We conclude, as discussed more fully *infra* at Section V.A. 2 (i)., that Columbia's basis for asserting the "necessity" and public interest of the proposed GPR was based upon flawed surveys which do not support a finding of need or public interest served by offering RNG attributes and carbon offsets as a tariffed product. *See*, Tariff Supplement No. 343 at 1 and 9.

We find that Tariff Supplement No. 343, as proposed, does not sufficiently specify a rate to be charged, as required under Sections 1307 and 1308 of the Code, and pertains to "below the line" non-tariffed products or services (RNG attributes and carbon offsets) which are not appropriate for approval as tariffed products or services, as they are not "used or useful" for the provision of gas distribution utility service. Further, because we conclude that Tariff Supplement No. 343, as proposed, does not pertain to Columbia's rate base, it cannot be found to be "just and reasonable" or in the public interest as required by Section 1301, and other provisions of the Code.

Accordingly, we shall decline to adopt the ALJ's Recommended Decision to adopt the JPNUS and deny Columbia's proposed Tariff Supplement No. 343, consistent with this Opinion and Order and the following disposition on the Exceptions.

We note that by rejecting the ALJs' Recommended Decision to adopt the Joint Petition, we are not rejecting the Commission's long-standing policy favoring settlements.[16] *See*, 52 Pa. Code § 5.231. Rather, this case presents the unique circumstance in which the underlying basis of the JPNUS, Tariff Supplement No. 343, is found to be insufficient under Sections 1307 and 1308 and other relevant provisions of the Code. In addition, where, as in this case, the Settlement pertains to more than a dispute between given parties, and touches upon a broad matter of public policy, such as "decarbonization goals in the natural gas industry," the Settlement of the Parties, and in particular a *nonunanimous settlement* on such a broad policy issue, is a reason for the Commission's review to be circumspect.

[16] We also note that by declining to approve Tariff Supplement No. 343 we are in no way precluding individuals or businesses from purchasing carbon emission offsets. Such offsets remain available for purchase by individuals and businesses from third-parties without the need for inclusion in a utility's tariff.

Finally, where the Tariff Supplement fails to satisfy the provisions of Chapter 13, the Parties, whether unanimous or not, may not override the mandatory provisions of the Code. Where the main subject of a proposed settlement is found to be insufficient under the mandatory provisions of the Code, the proposed settlement cannot be found to be in the public interest. *See,* Chapter 13, Subpart A of the Code (pertaining to rates), 66 Pa. C. S. § 1301, et seq.

V. Exceptions of the OCA and the RESA/NGS Parties

A. Exceptions of the OCA

1. The Recommended Decision's Adoption of a New On-Bill Service for a Non-Basic Service is Unreasonable

For the reasons discussed more fully, *infra*, at Section IV., we agree with the OCA that the offering proposed by Columbia's Tariff Supplement No. 343 is unreasonable as it proposes a tariff rate for non-tariffed goods/services. Because we shall decline to adopt proposed Tariff Supplement No. 343, we conclude it is not necessary to address, *inter alia*, the Section 1509 billing question raised by the OCA's Exception No. 1.

Accordingly, we shall deny the OCA's Exception No. 1.

2. The Recommended Decision's Adoption of the JPNUS Disregards Important and Unresolved Issues of Utilization of Customer Survey Results by Columbia

i. The Recommended Decision's Reliance Upon Vague Surveys is Misplaced

a. Positions of the Parties

Columbia's asserted reasons for proposing the GPR pilot program include: (1) to educate natural gas customers that they have options to reduce greenhouse gas emissions which do not require changes to their natural gas appliances; and (2) to track and evaluate enrollment of residential and commercial customers in a program where customers affirmatively choose to pay an added fee to reduce their carbon footprint. Columbia M.B. at 8 (citing Columbia St. No. 1-R at 6).

In support of the need for the program, Columbia referenced customer surveys it conducted in 2018 and 2022. Those surveys revealed that 71% and 83% of survey respondents, respectively, favored customers be given the choice of using renewable energy options, however, only 15.7% and 19% of those survey respondents, respectively, were even familiar with RNG. Columbia M.B. at 8-9 (citing Columbia Gas Exh. 1 at 26-35; Columbia St. No. 1 at 5). Columbia stated that it will conduct future surveys throughout the term of the pilot program related to participation in the pilot program and interest in renewable energy options for natural gas consumers, while also providing information about renewable energy options. Columbia M.B. at 9 (citing Columbia St. 1 at 6). Columbia provided that the future survey results, along with the customer participation data, will be used to determine if the pilot is successful in educating customers about carbon reduction options, as well as to gauge customer interest in paying for this type of program. *Id.*

Columbia stated that its proposed plan to educate, survey, and track participation throughout the duration of the pilot program will provide the Company with information on customer interest in renewable energy options, interest in paying for such options, how pricing impacts participation rates, and whether its educational materials are reaching its customers and impacting their views and level of interest in renewable energy options. Columbia M.B. at 9.

The OCA averred that Columbia has not researched customer acceptance of the GPR's use of RNG attributes and carbon offsets. According to the OCA, Columbia's survey questions supporting its filing were vague. The OCA's witness, Ms. Barbara R. Alexander, explained that while Columbia customers were asked in a survey whether they would like to be "given the option of using renewable energy," the Company has not researched customer acceptance of RNG attributes and carbon offsets through its regulated service. OCA M.B. at 12 (citing OCA St. No. 1 at 4).

The RESA/NGS Parties argued that the market research that Columbia claims supports the need for Columbia to offer the GPR was conducted by asking questions exclusively about RNG, not RNG attributes or carbon offsets. The RESA/NGS Parties took the position that Columbia's research carries no weight as it was geared solely to RNG, which is a physical product, and which is very different from the attribute products that Columbia has proposed in the GPR program. The RESA/NGS Parties argued that Columbia has not established that its default service customers, particularly commercial customers, are prepared to spend substantial sums to purchase RNG attributes or carbon offsets from Columbia. RESA/NGS Parties M.B. at 8 (citing RESA/NGS Parties St. No. 1 at 3). The RESA/NGS Parties submitted that if Columbia provides such a product, which it should not be permitted to do, it should be required to thoroughly and prominently explain what customers will be buying, with no reference to RNG. RESA/NGS Parties M.B. at 9.

The OSBA's witness, Ms. Angela J. Vitulli, provided that Columbia's market research does not indicate ratepayer demand for an offset based program design. Ms. Vitulli noted that the survey questions read as if Columbia is interested in consumer attitudes and willingness to pay for RNG supply. According to the OSBA, the survey was flawed in that it provides no information indicating that NiSource is asking about willingness to pay for alternative approaches to carbon reduction. The OSBA concluded that the survey may indicate what customers are willing to pay for RNG supply, but it does not indicate what customers are willing to pay for carbon offsets, especially offsets of unknown origin, type, or quality. OSBA St. No. 1 at 14-15.

CAUSE-PA noted that OSBA's witness, Ms. Vitulli, explained that, in its market research survey, Columbia did not mention the word "offset" or "environmental attributes" or "credits" at all and only asked customers about their interest in and willingness to pay for RNG. CAUSE-PA R.B. at 10 (citing OSBA St. No. 1 at 14). CAUSE-PA provided that the OCA's witness, Ms. Alexander, points out that, "[t]he Company has not researched customer acceptance of RNG attributes and carbon offsets through its regulated services." CAUSE-PA R.B. at 10 (citing OCA St. No. 1 at 4).

b. Recommended Decision

The ALJs concluded that the surveys showed a large and increasing interest from Columbia customers in having the option of using renewable energy sources, based upon the percentage of customers surveyed that favored being given the choice of using renewable energy increased from 71% to 83%, between 2018 and 2022, R.D. at 103 (citing Columbia Exh. 1, pp. 26-35; Columbia St. No. 1 at 5). The ALJs noted that Columbia admits it is not purchasing actual RNG supply for the GPR but states the GPR will provide customers an option to offset the carbon emissions related to their natural gas usage by either 50% or by 100%. R.D. at 103 (citing Columbia St. No. 2 at 6; Columbia St. No. 1 at 3). The ALJs explained that the offsets will be provided by a third

party and will consist of 5% RNG environmental attributes and 95% carbon offsets.[17] R.D. at 103-04 (citing Columbia St. No. 2 at 6).

The ALJs found that although the survey responses expressed interest in use of renewable energy and do not correlate precisely to what Columbia is proposing with the GPR, Columbia has nevertheless demonstrated a clear interest from its customers in being provided a program to mitigate effects caused by the use of conventional natural gas. R.D. at 104.

c. OCA Exception No. 2(i) and Replies

In its Exception No. 2(i), the OCA contends that the ALJs erred by placing importance on the surveys Columbia used to determine customer interest in renewable programs. The OCA notes that 83% of the customers who answered the survey support being given the option of using renewable energy and 43% indicated they are willing to pay more for renewable energy. OCA Exc. at 5 (citing R.D. at 103-104; OCA M.B. at 12; OCA St. 1 at 3; Columbia St. 1 at 5). The OCA contends that the GPR would not allow Columbia customers to use renewable energy. OCA Exc. at 5.

The OCA avers that the survey questions used, which relate to RNG, do not reflect the proposed GPR, which relates to RNG attributes and carbon offsets. In fact, the OCA contends, the products offered by Columbia would do nothing to lower the carbon

[17] Columbia defines RNG as a carbon-neutral (or in some cases carbon-negative) and sustainable alternative to geologic natural gas that is produced from organic waste from sources such as landfills, wastewater plants, and farms. The environmental attribute associated with the RNG is a product that is *detached* from the RNG and marketed as a standalone attribute. This RNG environmental attribute represents the carbon reduction associated with the RNG itself. A carbon offset is a reduction in emissions of carbon dioxide or other greenhouse gases made in order to compensate for emissions made elsewhere. Columbia St. No. 2 at 4. [Emphasis in original].

footprint of Columbia customers and the customers would not be buying any renewable energy. The OCA argues that, at best, customers will be offsetting their carbon usage and/or buying financial products (RNG attributes) that support the development of renewable gas. OCA Exc. at 6 (citing OCA M.B. at 12).

The OCA also provides that Columbia could have asked survey questions that would have explained the program that it is proposing, but did not do so. The OCA contends that Columbia has not researched customer acceptance of utilizing RNG environmental attributes and carbon offsets and there is no evidence to support the ALJs' interpretation that the surveys support this specific program. OCA Exc. at 6 (citing OCA St. 1 at 4). The OCA avers that customers wanting to reduce their carbon footprint and having options for renewable energy, including paying more for renewable energy, is not the same as selling customers RNG attributes and carbon offsets through their utility bill. The OCA provides further that the lack of clarity in the survey questions should give the Commission significant concern about whether Columbia can adequately or meaningfully explain this program through educational materials. OCA Exc. at 7.

In Replies to OCA Exc. No. 2(i), Columbia submits that it did not indicate in the surveys that any particular product or program would be offered to customers. Columbia contends that the ALJs correctly concluded that Columbia's surveys "do show a general interest from Columbia's customers in being provided options to mitigate effects caused by use of conventional gas." Columbia R. Exc. at 5 (citing R.D. at 105, 107). Since the GPR is an optional program, Columbia avers that customer interest can be gauged by the number of customers who enroll. Columbia provides that the GPR costs will be recovered through the GPR rate itself and the Company, not the customers, is at risk if Columbia has overestimated customer interest in the program. Columbia R. Exc. at 5 (citing Columbia M.B. at 7). Columbia maintains that the ALJs determined that the OCA's concerns regarding customer interest do not provide a reasonable basis for rejecting the JPNUS. Columbia R. Exc. at 5 (citing R.D. at 107).

d. Disposition

We note that the surveys that Columbia conducted regarding customer interest received only a small number of responses, in relation to Columbia's total customer base. Although Columbia has 440,000 customers in Pennsylvania, only a small number of responses were tabulated in the 2022 and 2018 surveys. More specifically, the Company only received 186 responses to its 2022 survey and 248 responses to its 2018 survey. Columbia Exh. 1 at 2, Attachment B. The percentage of customers interested in renewables becomes less significant if one looks at total customers. For example, while Columbia states that 83% of customers surveyed selected the option that customers should be given the choice of using renewable energy compared to conventional fuels, the percentage is based on the fact that 154 of the 186 customers who responded to the survey indicated "yes." Because this number represents 83% of the customers surveyed, and not 83% of Columbia's total customer base, we find that these are very limited results to extrapolate for purposes of a potentially costly program that does not provide actual emission reductions to benefit Pennsylvania or Pennsylvania customers. *See* Columbia St. No. 1 at 5.

It is also important to more closely analyze Columbia's claim that 63% of its customers indicated that using RNG is appealing to them. Columbia St. No. 1 at 5. While 118 of the 186 customers who responded to the 2022 survey indicated RNG is appealing, 63% of those same 186 customers also indicated that they are not familiar with RNG. If 63% of these customers are unfamiliar with RNG, it may be a difficult process to familiarize customers with RNG attributes, which are a financial product separate from actual RNG.

We also note that the survey questions do not necessarily reflect an accurate measure of customer interest in Columbia's proposal to offer RNG attributes or carbon offsets. For example, in its 2022 survey, the Company posed the following question:

"Would renewables (RNG) appeal to you? If you could use natural gas that is carbon neutral, like RNG, would that appeal to you?" From this survey question, the customer's response is a measure of the customer's interest in Columbia offering RNG, rather than RNG attributes or carbon offsets, which are not mentioned in the surveys. Columbia Exh. 1, Attachment B at 2 of 10.

We find that the survey results, which were from a very limited number of customers, cannot be reliably extrapolated to the total group of Columbia's customers. The proposed future surveys, once the program starts, would also be done with only a very limited sample size, *i.e.*, those customers who have signed up for the GPR program. Participation in the surveys is assumed to be voluntary. Even if all those who sign up for the GPR program complete a survey, the results would be of limited use based on the small sample size of customers already interested in renewables. As such, the proposed survey method would systematically be drawn from a group of customers favoring the use of carbon emissions offsets (*i.e.* those who opted to purchase them), a type of sampling bias which may undermine the usefulness of the survey results. We conclude the record does not show that the proposed surveys can reliably predict the performance of the proposed pilot program.

We agree with the OCA's argument that the ALJs may have relied too heavily on the 2018 and 2022 customer survey results. Columbia did not make it clear how many customers were part of the surveys and how those surveys were initiated. When describing the surveys Columbia stated:

> Columbia surveyed its customers to gauge if there is interest in an option to lower their carbon footprint for an additional fee. The survey results were as follows: 83% said they believe that customers should be given the option of using renewable energy, 63% said that using RNG is appealing to

> them and 13% of the customers indicated that they are willing to pay more for renewable energy.

Columbia St. No. 1 at 5.

Columbia states that one of the goals of the pilot program is to educate customers about renewables. Given that less than 20% of the customers surveyed were familiar with RNG, and none were surveyed regarding RNG attributes and offsets, it is unclear how an optional pilot program related to RNG attributes and offsets would generally help educate consumers about renewables. In our view, Columbia could educate customers about RNG and renewables without the GPR pilot program. For example, Columbia stated that it may pursue the use of physical RNG in the future. Columbia St. No. 1-R at 19. The goal of consumer education regarding renewables may be better achieved if Columbia were to include customer education materials when, and if, Columbia pursues the use of physical RNG, rather than the RNG attributes or offsets that will not be sourced from Pennsylvania.

We also note that the relatively small number of responses received relative to Columbia's total customer base of 440,000 may be interpreted as a *lack* of interest in the subject matter of the survey. The total number of survey responses was less than 1% of Columbia's total customers. Further, it is fair to reason that those who responded to the surveys may have already been interested in renewables, as they responded to a voluntary survey about renewables.

We find that the subject matter of Columbia's 2018 and 2022 surveys did not correlate directly with the subject matter of Columbia's proposed GPR pilot program, and the survey results were too limited to support the conclusion that a majority of Columbia customers are interested in using RNG, let alone RNG attributes and offsets. We also find that future surveys proposed for use during the GPR pilot program are not

reliable metrics to determine if the pilot will be a benefit to Pennsylvania customers of Columbia or a benefit to Pennsylvania in general. Accordingly, we shall grant the OCA's Exception No. 2(i).

ii. The Green Path Rider Lacks Important Consumer Protections

a. Positions of the Parties

Columbia provided that if the GPR is approved, it will fully explain to its customers what the program is and how it works. Columbia stated that it will provide questions and answers on its website regarding the GPR program along with direct email and other social media communications. Columbia M.B. at 13 (citing Columbia St. No. 1 at 6-7).

The OCA argued that providing consumer education *before* a customer enrolls in an optional service that would increase the total bill is a necessary protection. OCA M.B. at 15 (citing OCA St. No. 1-SR at 5). The OCA explained that Columbia has not proposed any customer education, marketing plan, or disclosure materials for review in this proceeding. OCA M.B. at 15 (citing OCA St. No. 1 at 7). According to the OCA, Columbia's notice for this filing to Pennsylvania consumers clearly reflects a misleading presentation of the proposed GPR and provides as follows:

> Under Columbia's proposed Green Path Rider, Columbia will purchase renewable natural gas ("RNG") environmental attributes and carbon offsets to **reduce a participating customer's emissions associated with their natural gas usage.**

OCA M.B. at 15-16 (citing OCA St. 1SR at 6), OCA M.B. at 16, n. 5 (emphasis in original).

The OSBA noted that during the interrogatory period, multiple intervenors asked Columbia to disclose the language that they will use to explain the program to customers. The OSBA stated that Columbia has not provided that language. The OSBA explained that at any point during these proceedings, Columbia could have made specific assurances and/or presented the disclosure language that multiple interveners have requested. According to the OSBA, Columbia's failure to make specific disclosure commitments and/or simply draft the 1-2 pages of customer education text required, combined with their misleading use of market research, points to a lack of commitment to transparency. OSBA St. No. 1-S at 5-6.

CAUSE-PA noted that Columbia has provided no customer education or marketing materials for review in this proceeding. CAUSE-PA R.B. at 10 (citing OCA M.B. at 13; OCA St. 1 at 5; Tr. at 80). CAUSE-PA explained that Columbia asserts in its main brief that it will fully explain the program and how it works after the program is approved. CAUSE-PA R.B. at 10 (citing Columbia M.B. at 13). According to CAUSE-PA, Columbia does not describe how it would explain this new and complex program to residential consumers. Without the ability to review outreach and education documentation in this proceeding, CAUSE-PA submitted that there is no record evidence to substantiate Columbia's claim that it will fully explain the program and certainly no ability to ascertain whether consumers would be able to understand whatever explanation Columbia derives. CAUSE-PA concluded that the lack of education materials proposed for the pilot program exacerbates the risk that low-income customers will pay more through enrollment, without receiving any actual, verifiable benefit for themselves, their community or the environment. CAUSE-PA R.B. at 10-11.

b. Recommended Decision

The ALJs agreed with Columbia's argument that it is premature to expect that consumer education and other public materials have been developed in their entirety

since the GPR has not yet been approved by the Commission. Additionally, the ALJs noted that the non-settling Parties' concerns have been further addressed because the JPNUS provides that the Statutory Advocates will be permitted to give feedback to Columbia regarding the consumer education materials. The ALJs expressed that while Columbia is not required by the JPNUS to accept the Statutory Advocates' suggestions, the ALJs have no reason to believe the Parties won't implement the terms of the Settlement in good faith and incorporate recommended changes by the Statutory Advocates where appropriate. R.D. at 106.

c. OCA Exception No. 2(ii) and Replies

In its Exception No. 2(ii), the OCA maintains that the problem with Columbia's education materials is not that they were inadequate or not developed "in their entirety" as stated in the Recommended Decision, but rather that Columbia developed no consumer education material, marketing material, or disclosures of any kind at all. OCA Exc. at 7 (citing R.D. at 106). The OCA notes that the only explanation to the public about the program is the fundamentally incorrect and potentially misleading public notice. OCA Exc. at 7 (citing OCA R.B. at 8, 11-12).

The OCA contends that the notice obscures the true nature of what Columbia will offer because it could lead a reasonable consumer to believe, incorrectly, that participating in this program would reduce the customer's emissions. OCA Exc. at 8 (citing OCA St. 1R at 4).

The OCA notes the ALJs' statements that "the Settlement terms do not mandate Columbia to accept the Statutory Advocates' suggestions" and "we have no reason to believe that parties won't implement the terms of the Settlement in good faith, which should include incorporating the input of the Statutory Advocates when appropriate." OCA Exc. at 8 (citing R.D. at 106). According to the OCA, there is

nothing in the JPNUS that requires Columbia to incorporate the input of the statutory advocates, when appropriate and in good faith, nor is there any modification to the JPNUS in the Recommended Decision to ensure that the ALJs' aspirations are followed. The OCA maintains that the JPNUS provides little assurance that any of the necessary edits that would be proposed by the statutory advocates would be taken into account by Columbia. The JPNUS states only that it merely "endeavor[s] to come to a consensus on the language." OCA Exc. at 8 (citing JPNUS at ¶¶ 22-23).

In Replies to OCA Exc. No. 2(ii), Columbia asserts that the ALJs correctly concluded that it would have been premature for Columbia to complete consumer education materials before the program is approved by the Commission. Columbia R. Exc. at 5 (citing R.D. at 106). Columbia contends that there is no requirement to develop education materials before a program is approved, and to do so would be inefficient since the approval process might require changes to the materials. Columbia R. Exc. at 5-6.

According to Columbia, the OCA's concerns regarding education materials ignores Columbia's commitment to develop clear education materials and provide them to customers. Columbia avers that it will provide customers with accurate and transparent education materials that fully explain the program and how it works. Columbia indicates that it will provide the education materials on its website, through direct mail and social media communications. Columbia R. Exc. at 6 (citing Columbia M.B. at 13, Columbia St. No. 1 at 6-7).

Columbia opines that the ALJs correctly concluded that the JPNUS addresses the OCA's concerns regarding feedback on the program from the Statutory Advocates. Columbia R. Exc. at 6 (citing JPNUS at ¶ 23; R.D. at 106). Columbia argues that the OCA's concerns about the development of education material is not a reason to overturn the ALJ's recommended approval of the JPNUS. Columbia R. Exc. at 6.

d. Disposition

The proposed GPR pilot is new and will potentially be difficult to explain to consumers. Columbia acknowledges the GPR will be unfamiliar to consumers when it states:

> The Green Path Rider pilot program is unique in its design, and to the Company's knowledge, is the first program of its kind being proposed in Pennsylvania.

Columbia M.B. at 2.

We are concerned that the information about the program provided to consumers, thus far, has been unclear. The surveys, although answered by only a limited number of customers, focused on renewables – particularly RNG, which may lead customers to believe that Columbia would offer them the option to support the use of RNG, not RNG attributes or carbon offsets. Columbia's website has an RNG page entitled "Renewable Natural Gas and How Does it Work"[18] to inform customers about RNG and for use by potential RNG suppliers. By looking at this webpage, a customer could assume, incorrectly, that Columbia is already using RNG in its system. Columbia St. No. 1 at 7, OCA St. No. 1-SR at 7. The notice regarding the proposed GPR indicated that it could "reduce" a customer's emissions, which is not entirely accurate. These issues indicate that a careful review of any education materials for the GPR pilot program by the Statutory Advocates and the Commission would be necessary prior to the roll-out of such a program. Therefore, we conclude that the OCA Exception No. 2(ii) is granted.

[18] Columbia St. No. 1-R, Exhibit EE-1.

iii. The Reporting Requirements Contained in the JPNUS Are Not Actionable Metrics

a. Positions of the Parties

Columbia indicated that the metrics that will be assessed if the GPR program is approved include enrollment levels for both residential and commercial customers, the tier selected (i.e., 50% or 100% reduction), attrition level and volumes, and whether customer interest in and knowledge of renewable energy resources increases as a result of the educational component of the GPR. Columbia R.B. at 4 (citing Columbia St. No. 1-R at 6). Columbia explained that this information will be assessed to gauge customer interest in renewable energy resources and paying for these types of resources. Columbia R.B. at 4.

Columbia further explained that the JPNUS requires Columbia to file an annual report for each year of the pilot program and details the list of information that the Company must collect and include in the annual report. Columbia indicated that it has also agreed to provide surveys to participating customers at the time of enrollment and exit from the program; feedback on rate/price; and opinion and understanding of carbon offsets, RNG environmental attributes, and RNG. Columbia noted that copies of the surveys and the results will be provided to the Statutory Advocates in a confidential manner at the time of the annual report. Columbia R.B. at 4; JPNUS ¶ 21, ¶ 24.

The OCA contended that Columbia has proposed no actionable metrics to measure in order to determine whether the GPR program is successful. OCA M.B. at 9-10 (citing Columbia Exh. No. 1; Reply to 52 Pa. Code § 53.52(a)(1); Columbia St. No. 1 at 4).

PSU provided that the pilot can be redesigned or modified to address ongoing concerns as they arise. PSU explained that the purpose of a pilot program is to learn. PSU recommended that details and information surrounding the pilot program, including, but not limited to, the number of participants from each rate class, the costs associated with the GPR and environmental attributes, purchased should be made available to all parties and reviewed on a regular basis, at least annually. PSU St. No. 1-SR at 4.

CAUSE-PA agreed with the OCA that Columbia has proposed no defined metrics to evaluate the effectiveness of the GPR "pilot." CAUSE-PA R.B. at 1.

b. Recommended Decision

The ALJs explained that the JPNUS provides for specific criteria and customer surveys to help evaluate the program's success, including enrollment levels, characteristics of purchased RNG environmental attributes and carbon offsets, as well as customer feedback. The ALJs opined that, as Columbia states, the GPR pilot program provides an opportunity to assess customer interest in both RNG environmental attributes and carbon offsets, and to educate customers about these types of renewable energy resources. R.D. at 107 (citing Columbia R.B. at 7).

c. OCA Exception No. 2(iii) and Replies

In its Exception No. 2(iii), the OCA disagrees with the ALJs' finding in the Recommended Decision that the JPNUS provides for specific criteria and surveys that could be used to evaluate the success of the GPR pilot program. OCA Exc. at 9 (citing R.D. at 107). The OCA argues that simply surveying customers throughout the term of the pilot will not provide useful metrics for the Parties and the Commission to evaluate. Also, the OCA notes, surveying customers will not address any of the potential cost

implications caused by the pilot program. The OCA is concerned about Columbia providing potentially misleading information to customers by including RNG in the surveys given the complexities between RNG environmental attributes (which are part of the program) and RNG (which is not part of the program). The OCA states that it is not reasonable for Columbia to provide the surveys and responses to the statutory advocates with Columbia's annual report. OCA Exc. at 9.

The OCA maintains that surveying customers does not provide a useful metric for the Parties and the Commission to evaluate. Further, the OCA argues, the proposed program lacks accountability and the Commission should not permit Columbia to offer it to its customers as a tariffed product billed on its bills. OCA Exc. at 10.

In its Replies to OCA Exception No. 2(iii), Columbia provides that the OCA's position that there are insufficient metrics to evaluate the pilot program is contrary to the JPNUS and should be rejected. Columbia notes that the ALJs did not find the OCA's argument persuasive, explaining that "[t]he JPNUS provides for specific criteria and customer surveys to help evaluate the program's success, including enrollment levels, characteristics of purchased RNG environmental attributes and carbon offsets, as well as customer feedback." Columbia R. Exc. at 7 (citing R.D. at 107).

d. Disposition

Columbia describes the proposed GPR pilot as follows:

> The Green Path Rider is another step by which Columbia will support the development of offerings that further decarbonization goals by empowering its customers to

> designate a portion or all of their monthly energy usage to be attributed to renewable resources.

Columbia St. No. 1 at 4.

Columbia provides that the objectives of the GPR are "to educate customers that options for carbon reductions exist that do not require any changes to their natural gas appliances, and, to track and evaluate enrollment of residential and commercial sales service customers in the pilot." Columbia St. No. 1-R at 15.

As noted *supra*, the initial surveys Columbia used to gauge interest in RNG (not RNG attributes or carbon offsets) were limited in their usefulness because of the small number of responses and their inapplicability to the proposed GPR pilot. The surveys to be used during and after enrollment will also likely be limited in responses and usefulness. The purpose of the GPR, as identified by Columbia, is not easily translated into measurable metrics. The objectives are vague – to "further decarbonization goals" and "to educate customers that carbon reductions exist that do not require changes to their natural gas appliances." It is unclear how these objectives could be attained through the proposed GPR pilot. Educating customers about renewables and carbon reductions could be done without the GPR at no cost to customers. We agree with the OCA that the proposed surveys of customers and the tracking of enrollment and other information Columbia will collect are not sufficient to verify that the proposed GPR program will be beneficial to Columbia customers or Pennsylvania. Accordingly, the OCA's Exception No. 2(iii) is granted.

iv. The Voluntary Nature of the Program Does Not Alleviate Concerns Regarding Low-Income Customer Participation

a. Positions of the Parties

Columbia provided that its GPR program includes many consumer protections including:

- Restricting residential customers who are participating in CAP from enrolling in the pilot program.
- Restricting customers who are in arrears from enrolling.
- Removing participating customers if they are in arrears for a period of three billing cycles.
- Prohibiting service termination for non-payment of the GPR portion of the bill.
- Advising customers of a change in the annual rate 30 days in advance of the new rate.

Columbia M.B. at 12 (citing Columbia Exh. 1 at 22).

Columbia explained that while low and moderate-income customers would be eligible to enroll in the GPR program, as long as they are not in arrears on their bill and are not participating in CAP, the GPR is designed to identify any customer who may be payment troubled and remove them from the program. Columbia provided that no customer will have their service terminated for non-payment of the GPR portion of their bill. Columbia M.B. at 12.

The OCA argued that Columbia's approach is not sufficient to protect low-income and marginal income consumers from higher total bills. The OCA provided

that merely excluding CAP customers and restricting customers in arrears from the program in no way resolves concerns about marketing this program to low-income customers and enrolling low-income customers in a program that could increase the total bill for essential home heating. The OCA noted that according to Columbia, 65% of its low-income customers are not enrolled in CAP. These customers might remain eligible to enroll in the GPR program and would incur higher bills for essential home heating as a result of program enrollment. OCA R.B. at 6-7 (citing OCA St. No. 1 at 8).

CAUSE-PA submitted that low-income customers already face disproportionately high rates of payment trouble and termination and the additional cost of participation in the GPR would exacerbate these issues. CAUSE-PA R.B. at 7 (citing 2019 Amendments to Policy Statement on Customer Assistance Program, M-2019-3012599, Final Policy Statement and Order at 27-30, 73, 76-77). CAUSE-PA explained that a limited exception covering a small percentage of low-income customers (*i.e.,* Columbia's proposal to exclude CAP customers from the GPR program) will not help resolve this disparate impact, nor is it good policy to carve out a limited exception to try and resolve a deeply flawed program that is designed to increase costs of gas service without clear, identifiable benefits to consumers or Pennsylvania. CAUSE-PA R.B. at 7 (citing OCA St. No. 1 at 5-8). According to CAUSE-PA, even if the Commission were to carve out an exception for all low-income customers, such an exception would be difficult to enforce given the fluctuating nature of income. CAUSE-PA R.B. at 7.

CAUSE-PA asserted that Columbia's proposal to exclude and otherwise remove customers with arrears from the program if they are in arrears for a period of three billing cycles is also insufficient, as these customers may be terminated by then. CAUSE-PA noted that although Columbia asserts that it will not terminate service solely for non-payment of the GPR portion of the bill, it is unclear how Columbia intends to distinguish customer payments made toward the GPR versus tariff rates. CAUSE -PA R.B. at 9 (citing Columbia M.B. at 12).

b. Recommended Decision

The ALJs noted the assertions of the OCA and CAUSE-PA that: low-income consumers will be hurt by the GPR; the cost of the GPR is significant by itself and compared with other carbon offset programs; and the GPR will not reliably deliver the offsets or impacts sought by consumers. R.D. at 110 (citing OCA M.B. at 10, 13-14, 17-18; CAUSE-PA R.B. at 6-8, 8-9, 10). The ALJs were not persuaded by these arguments. The ALJs reasoned that in addition to Columbia's proposal including consumer protections, participation in the GPR program is voluntary and consumers can leave if costs become too burdensome. According to the ALJs, it is critical that consumers be well informed when presented with the option to enroll in the GPR. The ALJs concluded that the concerns presented by the OCA and CAUSE-PA do not merit denying the proposal. R.D. at 110 (citing Columbia M.B. at 11-13).

c. OCA Exception 2(iv) and Replies

In its Exception No. 2(iv), the OCA does not agree with the ALJs finding that the OCA's concerns regarding low-income customers potentially being harmed by the GPR are addressed because "[i]t is important to emphasize that, in addition to Columbia's proposal including consumer protections, participation in the pilot program would be voluntary. Customers may leave the program if costs become too burdensome or they otherwise no longer find the GPR appealing." OCA Exc. at 10 (citing R.D. at 110). The OCA argues that the voluntary nature of the program does not mean that low-income Pennsylvania customers should be at risk of being enrolled in a potentially costly experimental program. The OCA explains that if a low-income customer enrolled in the GPR program discovers the program is too costly and withdraws, their previous charges on the bill were incurred and paid for or are left unpaid. OCA Exc. at 10. The

OCA alleges that the design of the GPR is flawed and presents risks to consumers, especially low-income consumers. OCA Exc. at 10-11.

In its Replies to OCA Exception No. 2(iv), Columbia submits that the OCA's position that the GPR could harm low-income customers who enroll in the program ignores the many consumer protections included in the GPR. Columbia explains that the ALJs correctly concluded that the OCA's concerns do not merit denying the GPR because in addition to the consumer protections included, participation is voluntary, and customers can leave the program. Columbia R. Exc. at 7-8 (citing R.D. at 110).

d. Disposition

Columbia emphasizes that the program is voluntary, and that a customer can drop out of the program if it becomes burdensome. Columbia is proposing that customers will continue to be enrolled through any rate increase. However, this could increase a customer's arrears. It is unclear why customers will receive only a 30-day notice of a change in the proposed rate for the program, while Columbia will receive 180-day notice of the change. In our view, given that Columbia will have approximately six months' notice, it should give longer notice to its customers of any rate increase.

We agree with the positions of the OCA and CAUSE-PA that the customer protections that Columbia offers for the GPR program are not sufficient to protect low-income and moderate-income customers. It would be difficult for Columbia to determine what amount of the customers' payments were applicable to the GPR costs. Removing customers from the GPR program after three months of default would be too long. Customers may not be able to recover from that amount of arrears. If a customer finds the program too costly and withdraws, the costs may remain in arrears or unpaid. We further agree with the OCA and CAUSE-PA that the program is flawed and poses a

financial risk to all customers. For these reasons, we shall grant the OCA's Exception No. 2(iv).

v. The JPNUS Is Unreasonable Where It Approves an Unknown Rate

a. Positions of the Parties

Columbia estimated that 1,100 residential and 375 commercial customers will participate in the GPR pilot program. According to the Company, participation will have no impact on the quality of service that its customers receive from Columbia, and only customers who volunteer to enroll in the pilot program will have their bills impacted. Columbia explained that its GPR rate will be comprised of the negotiated price of RNG attributes and carbon offsets procured from a third-party supplier. Columbia continued that a fixed price was negotiated for the RNG attributes and carbon offsets, and this fixed price is what will be passed through to the customers electing to participate in the GPR program. The Company stated that, as set forth in its proposed GPR tariff page, it will update the rider annually. Columbia further noted that this update could include a new fixed price as agreed upon with the third-party supplier. As previously noted, Columbia explained that the third-party supplier must provide 180 days advance notice of a change in rate. The Company asserted that it will notify customers before the new rate takes effect and will update its tariff accordingly. Columbia St. No. 1 at 6; Columbia M.B. at 8, 10.

Next, Columbia posited that if the GPR is approved, the Company will incur approximately $186,000 in one-time capital costs for IT programming, and approximately $33,500 in annual O&M expenses for customer education associated with the GPR. Columbia M.B. at 10. The Company also highlighted Paragraphs 25 and 26 of the JPNUS, which provide that these costs will be recovered only from customers

participating in the GPR pilot program, directly through the GPR rate. Columbia submitted that this is reasonable because it limits cost recovery to only those customers who choose to enroll in the GPR Program, holding all other customers harmless. Columbia Statement in Support at 6-7. Columbia further explained that based on its estimated participation level in the GPR program, these JPNUS provisions will result in a 2023 rate of $3.28 per Dth[19] for customers electing the 100% reduction option and a 2023 rate of $1.78 per Dth for customers electing the 50% reduction option. Columbia M.B. at 10-11.

In response to the OCA's argument, *infra*, that the Company's proposed GPR program is more expensive when compared to voluntary carbon emission offset programs in other jurisdictions, Columbia submitted that such programs either have fewer RNG attributes than the GPR Program or that they are not based on actual usage. Columbia insisted that when such differences are accounted for, the price of the GPR program is comparable. Columbia R.B. at 8-9.

The OCA argued that although this matter is not a base rate proceeding, Columbia's proposed GPR still has the effect of changing the rates that are charged to customers. Thus, the OCA reasoned, Columbia has the burden of proving that its rate and tariff proposal, including the rules of the GPR Program, are just and reasonable pursuant to Section 315(a) of the code, 66 Pa. C.S. § 315(a). The OCA took the position that because the Company has failed to meet its burden of proving that its proposed GPR would result in just and reasonable rates, the GPR Program must be rejected. OCA M.B. at 3-6.

[19] A Dth is a dekatherm which is a unit of energy that is equal to one million British thermal units or ten therms. Dekatherms measure the actual heating value of a specific volume of natural gas.

According to the OCA, the cost impact of the GPR Program would be significant for Columbia's customers that elect to participate. In this regard, the OCA noted that the first-year annual premium cost, the additional cost above tariffed rates, for an average usage residential customer participating in the GPR Program would be $129.15 for those customers purchasing the 50% reduction option and $258.30 for those purchasing the 100% reduction option. OCA M.B. at 11. Additionally, the OCA submitted that Columbia's proposed GPR Program is expensive in comparison to other voluntary carbon emission offset programs in other jurisdictions. Citing to the testimony of the OSBA's witness, Ms. Vitulli, the OCA argued Columbia's program is more than four times more expensive than Nicor Energy's voluntary TotalGreen program in Illinois, which is priced at $0.736 per Dth. Similarly, the OCA highlighted that DTE Energy's voluntary Clean Vision program in Michigan is priced at $192 per year for a 100% offset program for residential and commercial consumers. *Id.* at 14 (citing OSBA St. 1 at 16-17; OSBA St. No. 1S at 3-4).

Next, the OCA noted its agreement that the Company's commitment, as set forth in Paragraphs 25 and 26 of the JPNUS, to recover program costs only from customers participating in the GPR Program will avoid the improper allocation of costs. Nonetheless, the OCA took the position that even as modified by the JPNUS, Columbia's GPR Program will not result in just and reasonable rates, and a very real likelihood remains that customers will be confused and misled. In the OCA's view, the program's impact on rates is currently unknown. According to the OCA, retaining customers in a pilot program that changes costs annually without requiring consent from the customer is unreasonable. The OCA noted, *inter alia,* that although Columbia has committed to provide customers with at least 30 days' advance notice of any rate change, such annual rate changes will occur outside of a Commission base rate case. Thus, the OCA continued, these rate changes could potentially result in unjust and unreasonable rates due to fluctuating costs. The OCA reasoned that if the GPR Program is approved, Columbia should not be permitted to change prices annually and retain enrollment of customers

from the prior year without obtaining the customer's affirmative consent. Columbia M.B. at 13; Columbia R.B. at 4-5; Columbia Comments in Opposition to the Settlement at 2-3.

The RESA/NGS Parties, likewise, took the position that the Company's program will not result in just and reasonable rates. The RESA/NGS Parties highlighted that Columbia has agreed under the JPNUS to recover one-time IT costs and annual consumer education expenses only from customers that participate in the GPR program. However, the RESA/NGS Parties submitted that the Company has not agreed to recover *all* costs associated with the GPR program solely from participating customers. The RESA/NGS Parties reasoned that in the absence of such an agreement, it is inevitable that Columbia's entire distribution customer base will subsidize the GPR program. Therefore, the RESA/NGS Parties maintained that the Commission should reject the GPR program. RESA/NGS Parties Comments in Opposition to the Settlement at 5.

CAUSE-PA echoed the position of the OCA and the RESA/NGS Parties that the Company has failed to demonstrate that its proposed GPR program would result in just and reasonable rates or would otherwise serve the public interest. CAUSE-PA agreed with the OCA's argument that the GPR Program is expensive in comparison to other carbon emission offset programs in other jurisdictions. In CAUSE-PA's view, Columbia has not provided any reasonable justification for the substantial cost difference between its proposed GPR and the programs from other states, and low-income customers should not be placed at risk of paying substantial additional costs for this program. CAUSE-PA R.B. at 4-5, 8-9. CAUSE-PA further submitted that even as amended through the terms of the JPNUS, the GPR Program remains unjust and unreasonable with, *inter alia*, an inherent financial risk to low-income customers. CAUSE-PA Letter in Opposition to the Settlement at 2.

b. Recommended Decision

In their Recommended Decision, the ALJs found that Columbia's proposed GPR, as modified by the JPNUS, is supported by substantial evidence, is just and reasonable, and is in the public interest. The ALJs highlighted, *inter alia*, Columbia's agreement under the JPNUS to recover the costs associated with one-time IT costs and customer education expenses only from customers participating in the GPR program. R.D. at 103, 104-05, 107. Although PSU was not a signatory party to the JPNUS, the ALJs also highlighted PSU's argument that such a cost recovery method is reasonable because it fairly collects the costs only from the customers that benefit and, as a result, is in the public interest. *Id.* at 106, n.342 (citing PSU M.B. at 8). In contrast, the ALJs found that the arguments of the OCA, the RESA/NGS Parties, and CAUSE-PA in opposition to the GPR program were not sufficiently persuasive to merit denial of Columbia's proposal. Therefore, the ALJs recommended that Columbia be permitted to file a tariff supplement incorporating the terms of Tariff Supplement No. 343, as modified by the JPNUS, "to become effective upon at least one day's notice after entry of the Commission's Order approving the [JPNUS]." R.D. at 106, 114 at Ordering Paragraph No. 2.

c. OCA Exception No. 3 and Replies

In its Exception No. 3, the OCA claims that the ALJs erroneously accepted the JPNUS as being in the public interest without scrutinizing the Company's GPR rates. The OCA takes the position that regardless of the voluntary nature of the GPR program or the commitments and agreements set forth in the JPNUS, Columbia retains the burden of proving that the rates, terms, and conditions of its GPR are just and reasonable. The OCA submits that the fact Columbia's GPR would be a tariffed rate implies regulatory oversight, which includes ensuring the rate is reasonable. Accordingly, the OCA reasons,

the Commission should know what the initial rate will be, before approving the GPR program. OCA Exc. at 11-12.

The OCA contends, however, that the ALJs failed to identify what rates Columbia would include in its compliance tariff and further failed to confirm that the filed tariffed rates would be just and reasonable. The OCA continues that although Columbia has agreed under the Settlement to recover one-time IT costs and annual expenses for consumer education only from participating customers, such costs could be recovered over the initial three years of the GPR program or even after those three years. As such, the OCA reasons that the first-year rate for the GPR will be unknown based upon the record in this proceeding. The OCA maintains that the ALJs have recommended the approval of a costly program that will result in little to no actual carbon reductions or offsets in Pennsylvania and have permitted Columbia to implement the program without providing the Parties or the Commission with any customer education, marketing plan, disclosure materials, or even a pilot plan with reporting requirements for review. Accordingly, the OCA remains of the opinion that the Commission should reject Columbia's proposed GPR Program. OCA Exc. at 12-13.

In reply, Columbia argues that the Commission should deny the OCA's Exception No. 3. According to Columbia, it has clearly explained its cost recovery proposal for the GPR. More specifically, Columbia restates that the 2023 rate for the 100% reduction option will be $3.28 per Dth, while the rate for the 50% reduction option will be $1.78 per Dth. Columbia submits that the per Dth cost includes the fixed rate provided by the third-party supplier of RNG attributes and carbon offsets, plus the costs of implementing the GPR. Columbia insists that this per Dth cost incorporates both its one-time IT capital cost plus its annual O&M expense for customer education. Columbia further stresses that the third-party supplier must provide 180 days advance notice of a change in rate, and that Columbia will notify customers before the new rate takes effect and will update the tariff accordingly. Columbia restates that customers are free to leave

the pilot program if they do not wish to pay the new rate. Thus, Columbia argues, there is no evidence to support the OCA's claim that the GPR rate is not known or that it is not just and reasonable in accordance with Section 1301 of the Code, 66 Pa. C.S. § 1301. Columbia R. Exc. at 8-9.

d. Disposition

On consideration of the record evidence, we shall grant the OCA's Exception No. 3. As the OCA notes, Columbia, as the party with the burden of proof in this proceeding, enjoys no presumption that its GPR rates are just and reasonable. *See,* OCA M.B. at 3-6; OCA R.B. at 1-2. Thus, the rates the Company plans to implement under its GPR must be scrutinized. We begin by noting Paragraphs 25 and 26 of the JPNUS, which state, as follows:

> 25. As described in the Rebuttal Testimony of Columbia Witness Erich A. Evans (Columbia Statement No. 1-R, pages 2 – 3), the one-time information technology ("IT") costs and annual expense for consumer education will be recovered only from participating customers through the Green Path Rider rate. The Company will recover the one-time IT costs over the 3- year period of the initial pilot program term.
>
> 26. If the Company opts to extend the program for an additional 2 years, to the extent that the IT costs have not been fully recovered, the Company may continue to recover this cost from participating customers. In light of recovering costs from the participating customers, the Company shall not seek to recover any portion of the one-time IT costs in base rates applicable to all customers.

Columbia claims that these provisions of the JPNUS ensure that the costs of the GPR program will be recovered solely from its customers who participate in the program, such that the balance of its ratepayers are held harmless. Columbia also notes the voluntary

nature of the program. Additionally, on its face, it would appear that the starting rate for Columbia's GPR is known. Namely, Columbia emphasizes in its Replies to Exceptions that the 2023 rate for the 100% reduction option will be $3.28 per Dth, while the rate for the 50% reduction option will be $1.78 per Dth. Columbia R. Exc. at 12.

Nonetheless, consistent with our finding, *supra,* that Columbia's GPR program poses a financial risk to all customers in its service territory, we concur with the OCA, the RESA/NGS Parties, and CAUSE-PA that even as modified by the JPNUS, Columbia's GPR does not result in just and reasonable rates. As the OCA observed, the rates outlined above are only fixed for one year. Annual changes to the GPR rate will also occur outside of a base rate proceeding. OCA St. No. 1 at 5; OCA R.B. at 4. Thus, there is the potential for substantial fluctuation in rates from year-to-year, particularly in the current inflationary environment.

Columbia has restated in its reply to the OCA's Exception No. 3 that the third-party supplier is obligated to provide 180 days advance notice of a rate change, after which the Company will provide at least 30 days' notice to its customers before the new rates take effect. Columbia R. Exc. at 13. We have previously determined, however, that Columbia's proposal, wherein a customer will remain enrolled through any rate increase to the GPR, could increase a customer's arrears and could cause such costs to remain in arrears, to the detriment of all ratepayers. In its Main Briefs, the OCA argued that such a negative renewal option, where affirmative action is required by the customer to cancel the service, should not be permitted for essential natural gas customers. OCA M.B. at 18. We agree.

Additionally, as the RESA/NGS Parties noted, Columbia has agreed under the above paragraphs of the JPNUS to the concession that it will recover its consumer education costs and one-time IT costs only from its customers that have elected to participate in the GPR program. However, this concession does *not* account for how the

additional costs that the Company will incur under the GPR program, including start-up costs and administrative costs, will be recovered. RESA/NGS Parties St. No. 1 at 14 and Exhs. JH-7 and JH-8; RESA/NGS Parties Comments in Opposition to the Settlement at 5. Further, Columbia has provided that of its total customer base of 440,000, an estimated 1,100 residential and 375 commercial customers will participate in the GPR pilot program. Columbia M.B. at 8. The Company has made this estimate based upon the results of the surveys it conducted. As we have determined above that Columbia's surveys have not produced reliable metrics, we are concerned as to how Columbia will recover the costs of the GPR program if there is a shortfall in actual customer participation. Under this scenario, the costs of the GPR program could become prohibitively high for those enrolled, as there will be fewer participants over which to spread these costs. Additionally, we find merit in the observation of the RESA/NGS Parties that there is a very real possibility that the costs of the GPR program will ultimately be incurred by all of Columbia's ratepayers. *See,* RESA/NGS Parties St. No. 1 at 14; RESA/NGS Parties Comments in Opposition to the Settlement at 5.

In view of the above factors, we concur with the OCA's argument in its Exception No. 3 that, at present, the initial impact of Columbia's proposed GPR pilot program is unknown. As such, we are not persuaded that the Company's GPR program, as currently proposed, will result in just and reasonable rates for Columbia's customers. Accordingly, we shall grant the OCA's Exception No. 3.

B. Exceptions Nos. 1-4 of the RESA/NGS Parties

In their Exceptions Nos. 1-4, the RESA /NGS Parties assert that, by approval of Tariff Supplement No. 343, the Recommended Decision committed errors of fact and law by: (1) failing to recognize that the GPR is a competitive product; (2) failing to mandate the application of the Standards of Conduct to the GPR; (3) failing to require that Columbia's proposed on-bill billing for the GPR would require Columbia to offer

on-bill billing to NGSs for similar products; and, (4) placing the burden of proof upon the Parties which opposed the JPNUS. RESA/NGS Parties Exc. at 2-8. Each of the RESA/NGS Parties' Exceptions pertain to their opposition to approval of the JPNUS which would effectively approve Columbia's proposed Tariff Supplement No. 343. *Id*.

For the reasons discussed more fully, *supra* at Section IV, as we have concluded that Columbia's proposed Tariff Supplement No. 343 is legally insufficient, as seeking tariff treatment of a "below the line" good/service, and as we shall decline to adopt the ALJ's Recommended Decision recommending approval of the JPNUS, we shall grant the relief requested by the RESA/NGS Parties. Because we shall grant the relief requested, we find the separate questions raised by the Exceptions of the RESA/NGS Parties (pertaining to a competitive product offering subject to Section 2209 of the Code, application of the Standards of Conduct under 52 Pa. Code §62.142, non-discrimination in billing under Section 1509 of the Code, and the proper burden of proof for a nonunanimous settlement under the Code) to be moot.

Accordingly, we shall grant, in part, and deny, in part, the Exception Nos. 1-4 of the RESA/NGS Parties. To the extent we shall grant the relief requested under Exceptions Nos. 1-4 of the RESA/NGS Parties by denial of Columbia's proposed Tariff Supplement No. 343, we shall grant the Exceptions. More specifically, to the extent the Exceptions raise separate questions regarding competitive products, application of the Standards of Conduct, nondiscrimination in billing and the burden of proof for nonunanimous settlements, we shall deny the Exceptions.

VI. Conclusion

Upon analysis, we find Columbia's proposed Tariff Supplement No. 343 to be unlawful as seeking approval for a tariff rate of a non-tariff product offering, and therefore not reasonable or necessary or in the public interest. We shall therefore:

(1) decline to adopt the ALJ's Recommended Decision; (2) grant, in part, and deny, in part, the Exceptions of the OCA and the RESA/NGS Parties; and (3) direct that Columbia file a supplement removing Tariff Supplement No. 343 from its tariff; **THEREFORE,**

IT IS ORDERED:

1. That the Exceptions of the Office of Consumer Advocate to the Recommended Decision of Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John M. Coogan, issued on April 19, 2023, at Docket Nos. R-2022-3032167; C-2022-3032404; C-2022-3032550, are granted, in part, and denied, in part, consistent with this Opinion and Order.

2. That the Exceptions of the Retail Energy Supply Association, Shipley Choice, LLC, and NRG Energy, Inc., to the Recommended Decision of Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John M. Coogan, issued on April 19, 2023, at Docket Nos. R-2022-3032167; C-2022-3032404; C-2022-3032550, are granted, in part, and denied, in part, consistent with this Opinion and Order.

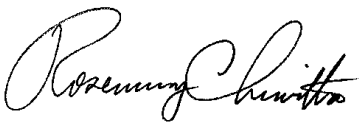
3. That by this Opinion and Order we shall adopt the Finding of Fact and Conclusions of Law contained in the Recommended Decision of Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge John M. Coogan, issued on April 19, 2023 at Docket Nos. R-2022-3032167; C-2022-3032404; C-2022-3032550, to the extent such findings and conclusions are consistent with those contained in this Opinion and Order. To the extent the Findings of Fact and Conclusions of Law in the Recommended Decision conflicts with the findings and conclusion reached by this Opinion and Order, such Findings of Fact and Conclusions of Law are expressly rejected.

4. That the Joint Petition for Nonunanimous Settlement filed by Columbia Gas of Pennsylvania, Inc., the Bureau of Investigation and Enforcement, and the Office of Small Business Advocate on March 22, 2023, is denied as not reasonable and necessary and in the public interest.

5. That within thirty (30) days of the date of entry of this Opinion and Order, Columbia Gas of Pennsylvania, Inc., is directed to file a Tariff Supplement removing Tariff Supplement No. 343 to Tariff Gas Pa. P.U.C. No. 9 (Tariff Supplement No. 343) at Docket No. R-2022-3032167, with an effective date of July 1, 2023, by order of suspension, filed on April 26, 2022.

6. That upon the filing of the Tariff Supplement effectuating the removal of Tariff Supplement No. 343 to Tariff Gas Pa. P.U.C. No. 9 (Tariff Supplement No. 343) at Docket No. R-2022-3032167, this docket shall be marked closed.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: June 15, 2023

ORDER ENTERED: June 15, 2023

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:	)	
	)	
THE ELECTRONIC APPLICATION OF	)	
COLUMBIA GAS OF KENTUCKY, INC. FOR	)	Case No. 2022-00049
APPROVAL OF THE GREEN PATH RIDER PILOT	)	
PROGRAM	)	
	)	

VERIFICATION OF ERICH EVANS

STATE OF OHIO)
)
COUNTY OF FRANKLIN)

Erich Evans, the Strategy and Risk Integration Director of NiSource Corporate Services Company, being duly sworn, states that he has supervised the preparation of responses to requests for information in the above-referenced case and that the matters and things set forth therein are true and accurate to the best of his knowledge, information and belief, formed after reasonable inquiry.

Erich Evans

The foregoing Verification was signed, acknowledged and sworn to before me this 12th day of July, 2023, by Erich Evans.

Notary Commission No. N/A

Commission expiration: N/A

John R Ryan III
Attorney At Law
Notary Public, State of Ohio
My commission has no expiration date
Sec. 147.03 R.C.