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Theodore J. Gallagher  
Senior Counsel  
Legal Department

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**NISource™**

Southpointe Industrial Park  
501 Technology Drive  
Canonsburg, PA 15317  
724.416.6355  
Cellular: 724.809.0525  
Fax: 724.416.6384  
tjgallagher@nisource.com

**Via Overnight Delivery**

August 25, 2009

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Natural Gas Distribution Companies and the  
Promotion of Competitive Retail Markets  
Docket No. L-2008-2069114**

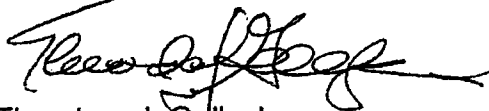
Dear Mr. McNulty:

Enclosed please find the original and sixteen (16) copies of Comments of Columbia Gas of Pennsylvania, Inc. for filing in the referenced matter.

Please file the original and fifteen copies and return the extra copy, file stamped, in the self-addressed envelope provided. Should you have any questions concerning this matter, please feel free to call me at 724.416.6355 or e-mail me at tjgallagher@nisource.com.

I thank you for your assistance.

Sincerely,



Theodore J. Gallagher

Enclosures

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AUG 25 2009

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Proposed Rulemaking: Natural Gas** :  
**Distribution Companies and the** : **Docket No. L-2008-2069114**  
**Promotion of Competitive Retail Markets** :

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**COMMENTS OF COLUMBIA GAS OF PENNSYLVANIA, INC.  
TO PROPOSED RULEMAKING ORDER**

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**A. INTRODUCTION**

On March 27, 2009, the Commission issued a Proposed Rulemaking Order in the above-captioned proceeding. Therein, the Commission proposed to adopt the following regulations governing the relationships between NDGCs and NGSs: (1) reformation of the Price to Compare; (2) permanent rules for POR programs; (3) mandatory capacity assignment; (4) a surcharge mechanism for NGDCs to recover costs of competition related activities; and (5) a surcharge to allow NGDCs to recover the cost of their annual regulatory assessments. On July 11, 2009, the Proposed Rulemaking Order was published in the *Pennsylvania Bulletin*. The Commission requested comments on the Proposed Rulemaking Order be submitted within 45 days of publication in the *Pennsylvania Bulletin*.

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AUG 25 2009

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Columbia Gas of Pennsylvania, Inc. ("Columbia"), by and through its attorneys, submits its comments in response to the Commission's Proposed Rulemaking Order and Annex A attached thereto. At the outset, Columbia commends to the Commission's attention and consideration the comments submitted by the Energy Association of Pennsylvania ("EAPA"), particularly EAPA's discussion of issues not addressed herein. In addition to EAPA's Comments on those issues, Columbia submits its own Comments in order to focus on Purchase of Receivables ("POR") and Price to Compare ("PTC"), which are issues in Proposed Rulemaking Order that are of particular concern to Columbia.

**B. BACKGROUND**

Columbia is a certificated Natural Gas Distribution Company ("NGDC"), providing sales and transportation services to approximately 414,000 customers in 26 counties in western, central, and south-central Pennsylvania, subject to the Commission's regulatory jurisdiction. Columbia has developed a CHOICE program,<sup>1</sup> which provides an opportunity for its residential and small commercial customers to buy their natural gas from a variety of competitive NGSS. Columbia's CHOICE program became a permanent program following the adoption of Pennsylvania's Natural Gas Choice and Competition Act, 66 Pa.C.S. §§ 2201-2212 (the "Choice Act").<sup>2</sup>

Columbia currently offers a purchase of receivables ("POR") program on a voluntary basis as part of its CHOICE program. Under its current POR program, Columbia is unable to terminate service for non-payment of purchased receivables. The inability to terminate service

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<sup>1</sup> Customer CHOICE<sup>SM</sup> is a service mark of Columbia Gas of Ohio, Inc and its use has been licensed by Columbia Gas of Pennsylvania, Inc. CHOICE<sup>®</sup> is a registered mark of Columbia Gas of Ohio, Inc. and its use has also been licensed by Columbia Gas of Pennsylvania, Inc.

<sup>2</sup> See Re: *Columbia Gas of Pennsylvania, Inc.*, Docket No. R-00994781, 93 PA. P.U.C. 375 (Order entered October 18, 1999).

for non-payment of purchased receivables substantially increases Columbia's risk that a customer will not pay the NGS receivables purchased by Columbia. Through its current POR program, Columbia offers to purchase receivables at a 5% discount rate, which compensates Columbia for this increased risk.

On September 11, 2008, the Commission issued an order in which the Commission concluded that NGDC POR programs offered the best means to increase NGS participation and increase competition in the retail NGS market. *Investigation into the Natural Gas Supply Market: Report on Stakeholder's Working Group*, Docket No. I-00040103F0002 (September 11, 2008) ("*SEARCH Order*"). The Commission determined that POR programs "can promote efficiencies, reduce costs to consumers and reduce barriers to market entry by alternative natural gas suppliers." *SEARCH Order*, at 11. 11. In the *SEARCH Order*, the Commission also stated its intent to commence a rulemaking proceeding by 2009 to develop new rules for POR programs. However, the Commission concluded that interim POR programs were appropriate and in the public interest. Consequently, the Commission directed NGDCs to voluntarily file interim POR programs.<sup>3</sup>

On December 19, 2008, the Commission issued an order adopting the Interim POR Guidelines for the purpose of providing guidance to NGDCs voluntarily submitting POR programs by the March 31, 2009 deadline. *Establishment of Interim Guidelines for Purchase of Receivables (POR) Programs*, Docket No. M-2008-2068982, I-00040103F0002 (December 19,

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<sup>3</sup> On December 11, 2008, the Commission issued an order which addressed comments it had received regarding POR programs by NGDCs. *Revisions of Guidelines for Maintaining Customer Services; Establishment of Interim Standards to Provide for Purchase of Receivables (POR) Programs; Postponement Requested by T.W. Phillips Gas & Oil and National Fuel Gas Distribution*, Docket Nos. M-2008-2068982, *et seq.*, (Order entered December 11, 2008). In that order, the Commission extended the deadline for NGDCs to voluntarily file POR programs until March 31, 2009. The Commission's order also stated that the Commission would initiate a new proceeding to revise the Customer Service Guidelines in 2009. The Commission further revised its Customer Service Guideline 6(a)(2) to allow termination of customers for failure to pay charges for natural gas supply service purchased from a NGS.

2008) (“*Interim POR Guidelines*”). Therein, the Commission indicated that the Interim POR Guidelines are general in nature to allow flexibility in program design to reflect differences in the NGDCs’ customer demographics, billing and collection operations, and system operating requirements. *Interim POR Guidelines*, at p. 10. Further, the Commission indicated that it would review and approve each NGDC proposed POR program voluntarily filed on a case-by-case basis, and will be open to waiving or revising the Interim POR Guidelines as warranted by the market conditions or company circumstances. *Interim POR Guidelines*, at 9.

On March 31, 2009, Columbia voluntarily filed its “Petition of Columbia Gas of Pennsylvania, Inc. for Approval to Voluntarily Implement a Modified Purchase of Receivables Program Pursuant to SEARCH Filing Requirements and Interim Purchase of Receivables Guidelines,” Docket No. P-2009-2099333 (“Columbia’s Proposed POR”), in accordance with the Commission’s SEARCH Order and Interim POR Guidelines. The POR program, as voluntarily proposed by Columbia, successfully responds to the issue identified in the Commission’s SEARCH Order that a properly structured POR program could help foster natural gas competition. Moreover, Columbia’s proposed POR program adheres to all of the program design parameters and customer service provisions set forth in the Commission’s Interim POR Guidelines.

### C. COMMENTS

#### 1. Purchase of Receivables

Columbia is the only NGDC and, until recently, the only major utility in Pennsylvania to offer a POR program.<sup>4</sup> As noted above, the 5% discount rate in its current POR compensates

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<sup>4</sup> In 2006, Duquesne Light Co. agreed to offer a POR program. *Pa. PUC. v. Duquesne Light Company*, Docket No. R-00061346 (Order entered December 1, 2006).

Columbia for this increased risk for the inability to terminate service for non-payment of NGS purchased receivables. In its 2008 base rate case at Docket Nos. R-2008-2011621, *et seq.*, Columbia proposed several modifications to its CHOICE and POR programs, including: unbundling of the gas cost portion of uncollectible costs and the inclusion of such unbundled costs in the Price to Compare;<sup>5</sup> elimination of a twenty-cent (\$0.20) per bill fee charged to NGSs for use of consolidating billing; and revisions to its POR program predicated on the ability of Columbia to terminate customers for non-payment of purchased receivables.

The parties to the 2008 base rate case reached a settlement of all issues, with the exception of proposed modifications to Columbia's POR program. Specifically, the parties disagreed on the legal and public policy considerations of permitting Columbia's proposed ability to terminate Columbia's customers based upon nonpayment of NGS purchased receivables and, if termination was permitted, the terms and conditions upon which customers were to be reconnected. Those issues, which were identified in the Settlement as reserved issues for litigation, were argued on briefs by the Office of Consumer Advocate and the NGSs. However, all parties agreed that, if termination were permitted for unpaid purchased receivables, Columbia's revised POR would feature a discount of 1.86%, plus an administrative adder of .39%, which would be eliminated once the costs of establishing the new POR are recovered.<sup>6</sup> On October 28, 2008, the Commission issued an order approving the settlement of the uncontested issues related to changes in Columbia's rates, rules, and regulations. *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket Nos. R-2008-2011621, *et seq.*, (Order entered October 28, 2008). With respect to the proposed modifications to Columbia's POR program, the Commission found that it

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<sup>5</sup> Columbia's Price to Compare is the cost per hundred cubic feet (Ccf) that a customer would pay to Columbia if they purchased their gas supply from Columbia.

<sup>6</sup> The Office of Consumer Advocate opposed termination for purchased receivables.

was bound by its prior decision in which it announced a policy that termination or refusal to restore services would not be permitted for nonpayment of purchased receivables.<sup>7</sup> Consequently, the Commission denied Columbia's proposed modifications to its POR program. However, the Commission recognized its POR guidelines were subject to change as a result of its *SEARCH Order* and, therefore, encouraged Columbia to re-file its POR plan consistent with any revisions to the Commission's POR guidelines. *Id.* at 13.

Columbia submits that the Commission's Interim POR Guidelines, in acknowledging the need for flexibility in program design to reflect differences in the NGDCs' customer demographics, billing and collection operations, and system operating requirements (*Interim POR Guidelines*, at p. 10), provides a better framework for the design and implementation of a successful POR program than the proposed regulations, given that the Interim Guidelines have permitted Columbia to propose a POR program that is consistent with a settlement reached in its 2008 Base Rate Proceeding. Consistent with the settlement in its 2008 Base Rate Proceeding, Columbia's Proposed POR has the following features:

- (a) Columbia will purchase marketer receivables at a base discount rate equal to the rate that is currently applied to the Price to Compare for unbundled gas supply uncollectibles expense, which is 1.86%.<sup>8</sup>
- (b) There will be an administrative adder of 0.39% applicable to purchased receivables. The adder will be eliminated once actual costs of establishing the new POR program are recovered.
- (c) The POR program will be mandatory for those NGSs that use Columbia's consolidated billing.
- (d) NGSs participating in Columbia's consolidated billing agree not to reject for enrollment a new customer based upon credit-related issues or require a separate security deposit.

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<sup>7</sup> See *Re: Guidelines for Maintaining Customer Service Levels*, Docket No. M-00991249F003, at p. 28 (Order entered August 26, 1999) ("Customer Service Guidelines")

<sup>8</sup> In the base rate proceeding at R-2008-2011621, *et seq.*, uncollectible expenses associated with gas supply were unbundled from base rates and are recovered as a percentage applied to sales customers gas supply charges.

- (e) Columbia has the right to terminate for the full amount of purchased receivables and require full payment for reconnection in accordance with the service termination provisions of Chapter 14 of the Pennsylvania Public Utility Code and Chapter 56 of the Commission's regulations.
- (f) Columbia will inform all CHOICE eligible customers by separate bill insert that specifically describes the change in policy relative to termination of service. In addition, Columbia will amend the enrollment letter it issues to those customers selecting an NGS of the change in policy relative to termination of service.

As Columbia noted in its filing for approval of its Proposed POR program, the reduced discount rate in Columbia's Proposed POR program of 2.25% (1.86% + 0.39%), as opposed to 5.0%, in combination with the previous unbundling of gas supply uncollectibles, is designed to foster increased NGS participation and effective competition in the retail NGS market. The base discount rate charged to an NGS purchased receivables would be the same 1.86% unbundled uncollectible expense charge included in Columbia's supplier of last resort ("SOLR") Price-to-Compare. Using the same percentage for the base discount will "level the playing field" for treatment of uncollectible accounts expense associated with gas costs. However, under Section 62.224(a)(4) of the proposed regulations, Columbia would be required to negotiate discounts with NGSs on its system, rather than set a discount that is rationally based upon its SOLR Price-to-Compare. The proposed regulations should be amended to allow for flexibility in setting a POR discount.

Columbia submits that the Commission should amend the proposed regulations at Section 62.224 by adopting the interim guideline that required NGSs participating in POR programs to use only NGDC consolidated billing services. The discount rate that is applied to purchased receivables is directly related to the NGDC's collection risk. Collection risk is influenced by the NGDC's ability to terminate service for non-payment. In the absence of a requirement that NGSs participating in POR programs must use only NGDC consolidated billing services, where



NGSs choose to issue their own bills, NGDCs will have no way to monitor billing and payment activity. This will take control of compliance with Chapter 56 termination regulations out of the NGDC's hands which, in effect, will sever the relationship between the ability to terminate service and the POR discount rate.

2. Price to Compare

Under the unbundling provisions of its 2008 Base Rate Proceeding settlement, Columbia agreed to remove \$4.5 from base rates to reflect the unbundling of uncollectibles related to gas costs and to add a 1.86% charge to its Price to Compare, for the recovery of uncollectibles associated with gas costs. In creating a level playing field, the Commission should not permit NGSs to "cherry pick" customers. Rather, given the protection afforded to NGSs against uncollectibles by virtue of POR programs, NGSs must be required to accept all applicants. Should NGSs be permitted to accept only the best paying customers, there will be a disparity between the SOLR uncollectibles and NGS uncollectibles especially where, as with Columbia, NGDC gas cost uncollectibles have been unbundled. Therefore, Columbia submits that the proposed regulations should be amended to include a provision which mandates that NGSs must accept all applications from customers who wish to procure supply from them. Without these provisions, it is conceivable that the NGS could acquire the good paying customers and leave the NGDC and its remaining customers with the burden of uncollectible accounts. Moreover, for NGSs who elect to participate in POR, they must be directed to sell all of their receivables in order to prevent the sale of only higher-risk receivables to the NGDC.

Columbia notes that the Commission's discussion of PTC and the proposed regulations do not adequately account for the fact that there are costs incurred by the NGDC in its base rates

that are there solely to serve the NGSs. For example, as the supplier of last resort, a NGDC must stand ready to supply a NGS customer whose NGS fails to deliver gas to its system. The NGDC incurs costs for the procurement of supply, transportation, and storage associated with that function. NGDCs must manage the flow of all supply on its system, a labor intensive process that involves up-to-the minute monitoring, communication with suppliers, balancing, banking, issuing operational orders, etc. NGDCs incur operational expenses in order to process customer enrollments and de-enrollments in Choice. These examples constitute a non-exhaustive list of activities carried out by NGDCs that inure to the benefit of NGSs. Columbia is concerned that, as proposed, the NGPA tariff rider will result in its sales customers paying for a share of administrative costs associated with distribution programs that benefit marketers, and all of the Company's purchased gas costs, a situation that is diametrically opposed to the goal of establishing a level playing field.<sup>9</sup> Therefore, the regulations should be amended so that there will be a credit to the PTC for costs that are attributable to NGSs. Alternatively, the regulations should be amended to include a provision that will allow NGDCs to bill NGSs or their customers for NGDC costs that are attributable to administering customer Choice and distribution service.

Columbia disputes the assertion in the Proposed Rulemaking Order that monthly adjustments to NGDC PGC costs will create a more valid comparison between offers from NGSs and the PTC. Empirical evidence belies that assertion. In 2004, Columbia's sibling company, Columbia Gas of Ohio, amended its gas cost recovery process from quarterly adjustments to monthly adjustments, with the monthly GCR based upon five days average NYMEX prices

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<sup>9</sup> Columbia notes that, pursuant to its 2008 Rate Case settlement, the parties agreed that there will be no further unbundling of base rates. If any party proposes further unbundling in a future base rate proceeding, or if the Commission directs further unbundling of base rates, Columbia shall have the right to oppose any unbundling and propose to terminate the proposed POR program.

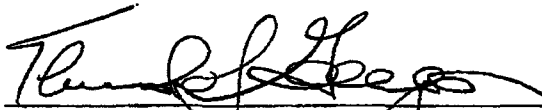
ending around the middle of each month. Leading up to that amendment, NGSs had argued that monthly GCR adjustments would result in a Price to Compare that more accurately represented market prices. In response to such monthly adjustments, one might have expected that NGS offers would be structured to compete with Columbia Gas of Ohio's monthly GCR fluctuations. Instead, to a large extent, NGSs reduced the number of monthly offers (i.e., variable rates) in favor of annual fixed price offers. While Columbia recognizes the value in rate stability for those customers who sign up for an annual rate, it cannot be assumed that a fluctuating monthly PTC will result in a "meaningful price indicator" in comparison to an annual locked-in rate.

Furthermore, Columbia believes that the most accurate price comparison, from a customer perspective, is a comparison that is based on the total bill versus a Price to Compare. Regardless of the components between the distribution and natural gas commodity charges, the only meaningful comparison to the customer is the total delivered cost of the product.

#### **D. CONCLUSION**

As discussed above, the proposed regulations in the rulemaking should be amended so that purchase of receivables programs can be tailored to reflect differences in the NGDCs' customer demographics, billing and collection operations, and system operating requirements, as properly recognized in the Commission's *Interim POR* Guidelines. Moreover, the proposed regulations regarding the Price to Compare should be amended to reflect, and properly provide for recovery of, NGDC costs that are attributable to Natural Gas Suppliers. Again, Columbia endorses and commends to the Commission's attention the Comments submitted in this matter by the Energy Association of Pennsylvania.

Respectfully submitted,  
COLUMBIA GAS OF PENNSYLVANIA, INC.

By:   
Theodore J. Gallagher (Atty I.D. No. 90842)  
Mark R. Kempic (Atty I.D. No. 64718)  
NISOURCE CORPORATE SERVICES  
COMPANY  
501 Technology Drive  
Canonsburg, Pennsylvania 15317  
Telephone: (724) 416-6355  
Facsimile: (724) 416-6382

Its Attorneys

Dated: August 25, 2009