

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

**Pennsylvania Public Utility
Commission, Law Bureau Prosecutory
Staff v. Columbia Gas of
Pennsylvania, Inc.**

**Public Meeting – July 29, 2010
1505396-OSA
Docket No. M-2009-1505396**

DISSENT IN PART OF VICE CHAIRMAN TYRONE J. CHRISTY

Consistently I have advocated that, in lieu of imposing civil penalties on utilities involving violations, or alleged violations, of the Public Utility Code or the Commission's Regulations, the greater public good is served by applying these dollar amounts elsewhere. These monies should be directed toward deserving utility related social agencies and programs, thereby positively affecting those truly in need. I will continue to advocate for applying these monies to well run programs such as the Dollar Energy Fund and other related programs.

During my tenure at the Commission we have approved and directed over \$4.5 million to various Low-Income Universal Service programs, including Hardship Funds, Low Income Usage Reduction Programs, Customer Assistance Programs, and the Dollar Energy Fund. The source of these funds includes civil penalties from jurisdictional energy utilities that would have otherwise gone to the general fund and refunds to jurisdictional natural gas distribution utilities from interstate pipelines. Assuming an average contribution to customers of \$300, these past Commission actions have provided assistance to approximately 15,000 needy low-income households minimizing customer hardship by making customer bills more affordable and maintaining essential utility service. Unfortunately, during this same time frame, \$251,500 representing fines associated with the provision of less than acceptable service to energy customers has been paid to the General Fund. Had this money been directed to Low-Income Universal Service programs instead of the General fund, over 700 additional need households could have received assistance.

Today the Commission considered the Joint Petition for Settlement (Settlement) filed on August 26, 2009, by the Commission's Law Bureau Prosecutory Staff (LBPS) and Columbia Gas of Pennsylvania, Inc. (Columbia). The Settlement, among other things, provides for a civil penalty of \$10,000.¹

By an Opinion and Order entered December 4, 2009, the Commission requested comments on the Settlement. In a Statement dated December 3, 2009, I requested that interested parties address the appropriateness of directing the \$10,000 to the Dollar Energy Fund, or other appropriate program, in lieu of imposing a civil penalty. The LBPS submitted comments

¹ In addition, the settlement requires that Columbia will continue to follow its current program for abandoning inactive service lines required by 52 Pa. Code § 192.727(d) and cease and desist from committing any further violations of gas safety regulations.

opposing directing \$10,000 to Columbia's hardship fund (through the Dollar Energy Fund) and supports the imposition of a \$10,000 civil penalty.

LBPS is of the opinion that the \$10,000 should not be paid into the Company's hardship fund because in these types of cases, a civil penalty emphasizes the importance of gas safety concerns and the need for a company to take all reasonable steps to ensure that similar incidents do not occur. The Commission should always send a strong message that safety or other violations will not be tolerated. Directing that a payment be made by a utility to a hardship fund, or to a third party administering this type of fund, is, in my opinion, every bit as effective in sending a message to a utility that safety violations will not be tolerated, as imposing a civil penalty. Consequently, I disagree with LBPS's unsupported assertion that directing fines toward uses that would benefit ratepayers in need of help is not as effective as a civil penalty. Utility customers in need are the heart of the public interest that the Commission is trying to protect. Imposition of a civil penalty on the utility provides no benefit to these customers. Money directed to a hardship program, or a civil penalty, comes directly from the pockets of a utility's shareholders. The deterrent effect on the utility is the same. A civil penalty payable to the Commonwealth will not benefit a single customer.

I am in the minority today in my desire to redirect this civil penalty. If applied to the Dollar Energy fund, this additional funding would help approximately 33 low- income customers maintain their service, assuming an average grant of about \$300. I believe that providing additional assistance to low-income customers is an important consideration, particularly during these tough economic times during which many individuals are being forced to choose between paying for utility service and paying for other essentials for their families.

I respectfully dissent from the majority's decision to the extent, and for the reasons, discussed above.

DATE

TYRONE J. CHRISTY, VICE CHAIRMAN