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File #: 193132

May 13, 2022

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: PA PUC v. Columbia Gas of Pennsylvania, Inc.
Docket Nos. R-2022-3031211, et al.**

Dear Secretary Chiavetta:

Attached for filing is the Answer of Columbia Gas of Pennsylvania, Inc., to Richard C. Culbertson's Motion to Suspend Rate Case Hearings in the above-referenced proceedings. Copies will be provided per the attached Certificate of Service.

Respectfully submitted,



Lindsay A. Berkstresser

LAB/kl
Attachment

cc: Honorable Christopher P. Pell (w/att.)
Honorable John M. Coogan (w/att.)
Certificate of Service

CERTIFICATE OF SERVICE

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

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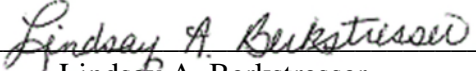
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Date: May 13, 2022


Lindsay A. Berkstresser

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2022-3031211
Office of Small Business Advocate	:	C-2022-3031632
Office of Consumer Advocate	:	C-2022-3031767
Pennsylvania State University	:	C-2022-3031957
Columbia Industrial Intervenors	:	C-2022-3032178
Jose A. Serrano	:	C-2022-3031821
Constance Wile	:	C-2022-3031749
Richard C. Culbertson	:	C-2022-3032203
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc	:	

**ANSWER OF COLUMBIA GAS OF PENNSYLVANIA, INC.
TO RICHARD C. CULBERTSON’S
MOTION TO SUSPEND RATE CASE HEARINGS**

TO ADMINISTRATIVE LAW JUDGES PELL AND COOGAN:

I. INTRODUCTION

On May 3, 2022, Administrative Law Judges Christopher P. Pell and John Coogan (the “ALJs”) issued a Prehearing Order setting forth the procedural schedule that was discussed at the prehearing conference held on April 29, 2022 in this matter. The procedural schedule provides for evidentiary hearings on August 2-4, 2022, as well as due dates for written testimony prior to the hearings and briefing following the hearings. Richard C. Culbertson was present at the April 29, 2022 prehearing conference and did not object to the procedural schedule. On May 2, 2022, Mr. Culbertson filed a “Motion to suspend this Rate Case until investigations, and constitutionally and statutorily required audits are planned, conducted and completed in accordance with upon Generally Accepted Audit Standards and are performed diligently by a competent and independent

external audit firm” (hereinafter “Motion”). In the Motion, Mr. Culbertson requests that the evidentiary hearings scheduled in this base rate proceeding be suspended. Motion, p. 5. Pursuant to 52 Pa. Code § 5.103(c) and the ALJs’ directive on May 3, 2022, that any responses to the Motion be filed by May 13, 2022, Columbia Gas of Pennsylvania, Inc. (“Columbia or the Company”) hereby files this Answer to Mr. Culbertson’s Motion. As explained herein, the Motion should be denied, and the hearings should proceed as scheduled.

II. ARGUMENT

In the Motion, Mr. Culbertson requests that the evidentiary hearings be suspended because, according to Mr. Culbertson, required audits and investigations have not occurred. Mr. Culbertson’s assertions regarding audits and investigations are incorrect and provide no support for his request to suspend the hearings.

Mr. Culbertson argues that Columbia’s rates may be unjust and unreasonable because no investigation has occurred. Motion, p. 5. According to Mr. Culbertson, an investigation “cannot be a traditional rate case proceeding.” Motion, p. 8. Mr. Culbertson fails to recognize that the very purpose of this base rate proceeding is to investigate Columbia’s existing and proposed rates. The Commission has suspended Columbia’s proposed rates until December 17, 2022, so that an investigation into the justness and reasonableness of Columbia’s proposals can occur. *See Order Suspending Columbia’s Supplement No. 337 by operation of law until December 17, 2022*, Docket No. R-2022-3031211 (Order entered April 14, 2022).

Multiple parties representing various interests are participating in this proceeding to examine Columbia’s proposal. Currently, Columbia is in the process of responding to hundreds of interrogatories from these parties. Prior to the scheduled hearings, the parties will have an opportunity to present several rounds of testimony setting forth their positions on Columbia’s proposal. For these reasons, suspending the evidentiary hearings would be counterintuitive to

ensuring that the rate case is investigated. In the Motion, Mr. Culbertson expresses concerns regarding Columbia's costs. Motion, p. 8. A base rate proceeding is the appropriate proceeding to examine a utility's costs.

Mr. Culbertson claims that an investigation "must come from outside of the parties to this rate case." Motion, p. 8. According to Mr. Culbertson the parties to a rate proceeding are not "trained or reliable investigators nor auditors." Motion, p. 8. He also claims that "Administrative Law Judges are also not trained investigators nor auditors." Motion, p. 8. Mr. Culbertson's allegations questioning the competence of the Commission's staff or other parties to this case are irrelevant and ignore decades of practice and procedure in rate cases before the Commission.

Moreover, Mr. Culbertson's requested relief is contrary to Section 1308(d) of the Public Utility Code, 66 Pa. C.S. § 1308(d), which requires that either the case be resolved within nine months or proposed rates go into effect subject to refund. *See* 66 Pa. C.S. § 1308(d). Mr. Culbertson's request to suspend the hearings would not allow sufficient time for the Commission to render a decision within the statutorily required timeframe. Although Mr. Culbertson acknowledges that there is a statutory deadline for this rate proceeding, he also states that "[i]f the Commission cannot meet a date to provide a decision to Columbia on the proposed rate – so be it." Motion, pp. 5, 8. If this were the case, and the Commission does not issue an order concerning Columbia's proposed rate increase within the statutorily required timeframe, Columbia's proposed rates would become effective subject to refund. *See* 66 Pa. C.S. § 1308(d).

In the Motion, Mr. Culbertson expresses several concerns regarding the Commission, all of which are irrelevant to this proceeding and should not be addressed in a utility's rate case. Mr. Culbertson criticizes the Commission for not issuing a press release for its April 15, 2022 Rate Comparison Report. Motion, pp. 5-6. Not only are Mr. Culbertson's claims about the rates of

other utilities are irrelevant to the determination of whether Columbia's rates are just and reasonable, the Commission's process for issuing press releases is not at issue in this case. Mr. Culbertson also cites to the rate case process in Ohio and the Commission's requirements for "UBER drivers" in reaching his claim that the Commission's rate case process falls short of due diligence. Motion, p. 9. The rate case process in another state and the Commission's requirements for transportation network companies are both irrelevant to this base rate proceeding of a natural gas distribution company before the Commission. Moreover, if Mr. Culbertson is seeking to change the Commission's regulatory requirements or procedures, the proper place to address this issue would be in a general proceeding where all interested stakeholders can participate. Columbia has no control over the Commission's procedures, including how it issues press releases, and any potential changes to the Commission's procedures would affect all utilities, not just Columbia.

Mr. Culbertson also claims that the Commission has not performed required audits, despite 66 Pa. C.S. § 308.2(a)(8). Section 308.2(a)(8) provides the Commission with authority to establish a bureau to "conduct financial, management, operational and special audits." 66 Pa. C.S. § 308.2(8). Mr. Culbertson's allegation regarding a lack of proper auditing by the Commission is inaccurate. Columbia undergoes regular auditing by the Commission in accordance with Section 516 of the Public Utility Code, 66 Pa. C.S. § 516. *See, e.g.,* Management and Operations Audit of Columbia Gas of Pennsylvania, Inc., Docket No. D-2019-3011582 (Issued June 2020, available at <https://www.puc.pa.gov/pdocs/1670369.pdf>). Mr. Culbertson's mistaken belief that the Commission does not audit Columbia provides no support for suspending the hearings in this proceeding. With respect to Mr. Culbertson's argument that audits should occur in accordance with "Yellow Book" auditing standards, Columbia filed its base rate case in accordance with the requirements of the Commission's regulations, which do not require submission of financial

statements meeting “Yellow Book” auditing standards. *See* 52 Pa. Code § 53.53. Motion, p. 5. Mr. Culbertson also cites Section 10 (Audits) of Article VIII (Taxation and Finance) of the Constitution of Pennsylvania, which sets forth audit requirements for entities that receive funding from the Pennsylvania state government. Motion, p. 4. Columbia is not subject to this constitutional provision because it does not receive funding from the Pennsylvania state government, and therefore this reference is irrelevant to this proceeding.

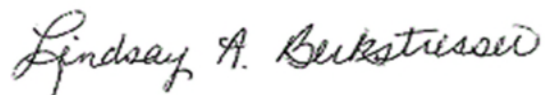
Finally, Mr. Culbertson questions whether the Commission has knowingly misrepresented that it will investigate Columbia’s proposed rate increase. Motion, p. 10. The Commission has recognized that it, as the adjudicatory body, cannot undertake a prosecutor or investigative function, as this would violate due process. This is why the Commission has established separate entities, such as the Bureau of Investigation and Enforcement, to undertake investigations. *See, e.g. Pa. Pub. Utility Comm’n. et al. v. Gary Polzot, t/a, Airport Exec. Car Service*, 2013 Pa. PUC LEXIS 876, *12-13, Docket No. C-2011-2271305 (Order entered Oct. 31, 2013) (explaining the need to ensure that there are appropriate “walls of division” between prosecutory and adjudicatory functions and the Commission’s prohibition on the commingling of those functions) citing 66 Pa. C.S. § 308.2(b); *Lyness v. State Bd. of Med.*, 529 Pa. 535, 605 A.2d 1204 (1992); *Delegation of Prosecutory Authority to Bureaus with Enforcement Responsibilities*, Docket No. M-0094053, 1994 Pa. PUC LEXIS 148 (September 2, 1994).

For the reasons explained above, none of the arguments in Mr. Culbertson’s Motion provide a valid basis for suspending the hearings in this case. Therefore, Columbia requests that the Motion be denied and that existing procedural schedule, including the hearing dates, remain unchanged.

III. CONCLUSION

WHEREFORE, Columbia Gas of Pennsylvania, Inc. respectfully requests that the Motion of Richard C. Culbertson be denied and the evidentiary hearings be held as established by the existing procedural schedule in this case.

Respectfully submitted,



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Date: May 13, 2022

VERIFICATION

I, Nicole Paloney, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: May 13, 2022

Nicole Paloney
Nicole Paloney
Director of Rates and Regulatory Affairs
Columbia Gas of Pennsylvania, Inc.