**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 :

**PREHEARING ORDER #3**

On March 18, 2022, Columbia Gas of Pennsylvania, Inc. (Columbia or Respondent), filed Supplement No. 337 to Tariff Gas Pa. P.U.C. No. 9 to become effective

May 17, 2022, containing proposed changes in rates, rules, and regulations calculated to produce $82.2 million in additional annualrevenues. Columbia’s filing is docketed at R-2022-3031211.

On March 22, 2022, Erika L. McLain, Esq., entered a Notice of Appearance at docket number R-2022-3031211 on behalf of the Commission’s Bureau of Investigation and Enforcement (I&E).

On March 28, 2022, the Office of Small Business Advocate (OSBA) filed a Verification, Public Statement, a Notice of Appearance on behalf of Steven C. Gray, Esq., and a formal Complaint to the proposed rate increase at docket number R-2022-3031211. The Complaint was docketed at C-2022-3031632.

On April 1, 2022, Jose A. Serrano filed a formal Complaint to the proposed rate increase at docket number R-2022-3031211. The Complaint was docketed at C-2022-3031821.

On April 4, 2022, Constance Wile filed a formal Complaint to the proposed rate increase at docket number R-2022-3031211. The Complaint was docketed at C-2022-3031749.

On April 5, 2022, the Office of Consumer Advocate (OCA) filed a Public Statement, a Notice of Appearance on behalf of Aron Beatty, Esq., Barrett C. Sheridan, Esq., Harrison W. Breitman, Esq., and Lauren E. Guerra, Esq., and a formal Complaint to the proposed rate increase at docket number R-2022-3031211. The Complaint was docketed at C-2022-3031767.

On April 8, 2022, the Pennsylvania Weatherization Providers Task Force, Inc. (Task Force) filed a Petition to Intervene at docket number R-2022-3031211.

On April 11, 2022, the Retail Energy Supply Association, Shipley Choice, LLC, and NRG Energy, Inc. (RESA/NGS Parties) filed a Petition to Intervene at docket number R-2022-3031211.

On April 12, 2022, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene at docket number R-2022-3031211.

By Order entered on April 14, 2022, the Pennsylvania Public Utility Commission (Commission) instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase at docket number R-2022-3031211. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S.A. § 1308(d), Supplement No. 337 to Tariff Gas Pa. P.U.C. No. 9 was suspended by operation of law until December 17, 2022, unless permitted by Commission Order to become effective at an earlier date. 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 matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

In accordance with the Commission’s April 14, 2022 Order, the matter at docket number R-2022-3031211 was assigned to Deputy Chief Administrative Law Judge Christopher P. Pell.

On April 15, 2022, the Pennsylvania State University (PSU) filed a formal Complaint to the proposed rate increase at docket number R-2022-3031211. The Complaint was docketed at C-2022-3031957.

On April 26, 2022, Columbia filed Tariff Supplement No. 343 to Tariff Gas Pa PUC No. 9 (Green Path Rider Tariff Filing), which proposes to add the Green Path Rider to Columbia’s Tariff. That same day, Columbia filed its Motion to Consolidate Columbia Gas of Pennsylvania Inc.’s Proposed Tariff Modifications for Inclusion of the Green Path Rider with the Base Rate Case Filed Pursuant to 66 Pa.C.S. § 1308 at Docket No. R-2022-3031211 (Motion to Consolidate). Tariff Supplement No. 343 to Tariff Gas Pa PUC No. 9 was docketed at R-2022-3032167.

On April 27, 2022, the Columbia Industrial Intervenors (CII) filed a formal Complaint to the proposed rate increase at docket number R-2022-3031211. The Complaint was docketed at C-2022-3032178.

Also on April 27, 2022, The Natural Resources Defense Council (NRDC) filed a Petition to Intervene at docket number R-2022-3031211.

On April 28, 2022, Richard C. Culbertson filed a formal Complaint to the proposed rate increase at docket number R-2022-3031211. The Complaint was docketed at C-2022-3032203.

A Call-in Telephonic Prehearing Conference for the proceeding at docket number R-2022-3031211 was held on April 29, 2022. Counsel for Columbia, I&E, OCA, OSBA, PSU, the Pennsylvania Weatherization Provider’s Task Force, Inc., RESA/NGS Parties, CAUSE-PA, NRDC, CII, and Richard C. Culbertson participated.

On May 2, 2022, Administrative Law Judge John Coogan was assigned to co-preside at the proceeding docketed at R-2022-3031211.

On May 2, 2022, Richard C. Culbertson filed his Motion to Suspend Columbia Gas of Pennsylvania Rate Case Hearings, Docket No. R-2022-3031211, Until Ordered Investigations, and Pennsylvania Constitutionally Required and Pennsylvania Statutionally Required Financial and Performance Audits Have Been Diligently Planned, Performed and Completed by a Competent, Independent and Experienced Audit Firm that Can Provide the Status – Material Weaknesses, Significant Deficiencies and a Level of Assurance of Columbia’s Internal Controls in the Areas of - Effective and Efficient Operations – Safeguarding Assets, Reliable Reporting of Financials and Non-Financials and Compliance with Laws, Regulations, Standards, Tariff and Internal Policy (Motion to Suspend) at docket number R-2022-3031211.

On May 3, 2022, a Prehearing Order was issued for the proceeding at docket number R-2022-3031211, granting the Petitions to Intervene of the Pennsylvania Weatherization Task Force, Inc., the RESA/NGS Parties and CAUSE-PA; setting May 6, 2022 as the date by which Columbia must file its Answer to the Petition to Intervene of NRDC; and setting

May 9, 2022 as the date by which OCA and CAUSE-PA must file any objections to Columbia Gas’ Motion to Consolidate. Additionally, a schedule for the submission of pre-served testimony was set and evidentiary hearings were scheduled for August 2, 3, and 4, 2022.

On May 6, 2022, Columbia filed an Answer to the Petition to Intervene of NRDC at docket number R-2022-3031211, stating they did not oppose the intervention of NRDC.

On May 6, 2022, Columbia filed an Answer and New Matter to the Complaint of Richard C. Culbertson at docket number R-2022-3031211.

On May 6, 2022, Columbia filed a Motion for Protective Order at docket number R-2022-3031211.

On May 9, 2022, OCA filed both an Answer in Opposition to Columbia’s Motion to Consolidate and a Formal Complaint and Public Statement regarding Columbia’s Green Path Rider Tariff Filing. The Complaint was docketed at C-2022-3032404.

On May 11, 2022, we issued a Prehearing Order granting Columbia’s Motion for Protective Order at docket number R-2022-3031211.

By Order dated May 13, 2022, we denied Columbia’s Motion to Consolidate.

Also on May 13, 2022, Columbia filed its Answer of Columbia Gas of Pennsylvania, Inc. to Richard C. Culbertson’s Motion to Suspend Rate Case Hearings.

For the reasons set forth below, Mr. Culbertson’s Motion to Suspend is denied.

Mr. Culbertson’s Motion to Suspend

Mr. Culbertson’s Motion to Suspend requests that the Columbia Gas base rate procedural schedule be suspended until such time as required audits and investigations have occurred. Mr. Culbertson argues that “[w]ithout these investigations and audits consumers are exposed to illegal, unjust and unreasonable rates and charges as well as waste, fraud, abuse and mismanagement.”[[1]](#footnote-1) Mr. Culbertson further argues that the “gross omissions of investigations and audits have and are putting Columbia’s customers at risk of requiring customers to pay rates and charges that are not just, reasonable and in the public interest.”[[2]](#footnote-2) Additionally, Mr. Culbertson argues that, because complainants and the ALJs are not trained or reliable investigators or auditors, “any audits and investigation must come from outside of the parties to the rate case.”[[3]](#footnote-3)

Columbia responded that 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.[[4]](#footnote-4) Columbia further responded that 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.[[5]](#footnote-5)

Discussion

Regarding general rate increases, the Public Utility Code provides in pertinent part that:

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.** Before the expiration of such seven-month period, a majority of the members of the commission serving in accordance with law, acting unanimously, shall make a final decision and order, setting forth its reasons therefor, granting or denying, in whole or in part, the general rate increase requested.[[6]](#footnote-6)

Pursuant to the Public Utility Code, the Commission’s investigation must be completed within seven months from the date rates would otherwise be effective or the proposed rates will go into effect.[[7]](#footnote-7) The duration for this investigation is mandated by statute, and we are bound by the statutory deadline in this case.

Contrary to Mr. Culbertson’s requested change in procedure that any such investigation should be conducted by someone “from outside of the parties to the rate case,”[[8]](#footnote-8) the Public Utility Code places the responsibility for conducting the investigation on the Commission. Moreover, any criticism of the investigation being conducted at this docket is premature. Such an argument should either be raised in a main brief, or if necessary, in exceptions to any recommended decision issued in this matter.

We will note that Mr. Culbertson raised similar concerns about the investigation into Columbia’s previous rate case filing in his exceptions to the Recommended Decision issued at *Pa.PUC v. Columbia Gas of Pennsylvania, Inc., Docket No. R-2021-3024296*. In denying Mr. Culbertson’s exceptions, the Commission noted that Columbia’s filing had “been subject to an extensive and detailed investigation by eight other active Parties” to the proceeding.[[9]](#footnote-9) The Commission further noted that:

As we have stated in prior decisions,

In the context of a general rate increase case such as this one, the Commission is aided by the active participation of entities representing various subgroups of the entire public. A number of these active participants have a statutorily imposed obligation to provide this representation, while others are self-created entities choosing to represent a delineated subgroup. Taken as a whole, these active participants cover the entire spectrum of the public whose welfare is to be protected.

The OCA is statutorily charged with the duty of representing “the interests of consumers”, *i.e.*, individual ratepayers, “in any matter properly before the commission,” such as the instant general rate increase case. 66 Pa. C.S.

§ 3206(a). The OSBA is statutorily charged with the duty of representing “the interests of small business consumers, in any matter properly before the commission,” such as the instant general rate increase case. 66 Pa. C.S. § 3206(b). I&E is statutorily charged with taking “appropriate enforcement actions, including rate proceedings . . . to insure compliance with this title [Title 66, Pennsylvania Consolidated Statutes], commission regulations and orders.” 66 Pa. C.S. § 308.2.(a)(11).

One could argue that these three entities alone constitute representation of the entire public whose welfare is to be protected.[[10]](#footnote-10)

As in Columbia’s previous rate proceeding, OCA, OSBA and I&E are active participants in the instant proceeding. Moreover, the other entities who are actively participating in this case represent other subgroups of the public as a whole. These participants include RESA/NGS Parties, PSU, Task Force, CAUSE-PA, NRDC, and CII. We have every expectation that participation by each of these parties will ensure that a full and comprehensive investigation into Columbia’s rate filing will take place, and that this investigation will be similar to investigations conducted in other recent Section 1308(d) general rate increase proceedings that ensured that the utility’s rates were just and reasonable.

Accordingly, Mr. Culbertson’s Motion to Suspend is denied.

THEREFORE,

IT IS ORDERED:

1. That the Motion to Suspend Columbia Gas of Pennsylvania Rate Case Hearings, Docket No. R-2022-3031211, Until Ordered Investigations, and Pennsylvania Constitutionally Required and Pennsylvania Statutionally Required Financial and Performance Audits Have Been Diligently Planned, Performed and Completed by a Competent, Independent and Experienced Audit Firm that Can Provide the Status – Material Weaknesses, Significant Deficiencies and a Level of Assurance of Columbia’s Internal Controls in the Areas of - Effective and Efficient Operations – Safeguarding Assets, Reliable Reporting of Financials and Non-Financials and Compliance with Laws, Regulations, Standards, Tariff and Internal Policy filed by Richard C. Culbertson at docket number R-2022-3031211 is denied.

Date: May 16, 2022 /s/

Christopher P. Pell

Deputy Chief Administrative Law Judge

/s/

John Coogan

Administrative Law Judge

Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.

Docket Number R-2022-3031211

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1. Culbertson Motion at 5. [↑](#footnote-ref-1)
2. *Id*. [↑](#footnote-ref-2)
3. Culbertson Motion at 8. [↑](#footnote-ref-3)
4. Columbia Answer at 3. [↑](#footnote-ref-4)
5. Columbia Answer at 4 [↑](#footnote-ref-5)
6. 66 Pa.C.S. § 1308(d)(emphasis added). [↑](#footnote-ref-6)
7. *Id*. [↑](#footnote-ref-7)
8. Culbertson Motion at 8. [↑](#footnote-ref-8)
9. *Pa.PUC v. Columbia Gas of Pennsylvania, Inc., Docket No. R-2021-3024296* (Opinion and Order entered December 16, 2021 at 27). [↑](#footnote-ref-9)
10. *Id.* at 28. [↑](#footnote-ref-10)