

September 2, 2022

***Via Electronic Filing***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v.  
Columbia Gas of Pennsylvania, Inc.  
Docket No.: R-2022-3031211  
**Culbertson Reply Brief**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the **Reply Brief of Richard C. Culbertson** in the above-captioned proceeding.

Copies are being served on parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard C. Culbertson", with a stylized flourish at the end.

Richard C Culbertson

cc: Deputy Chief Administrative Law Judge Christopher Pell (*via email*)  
Administrative Law Judge John M. Coogan (*via email*)  
Per Certificate of Service

**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	:	

**I. INTRODUCTION**

**Columbia’s Brief:**

“V. ARGUMENT

A. REVENUE ALLOCATION

*1. The revenue allocation agreed to by the Joint Petitioners to the Non-  
Unanimous Settlement is just and reasonable, in the public interest, and  
consistent with cost-causation principles, and should be approved.”*

Columbia’s argument does not satisfy the Commission’s order in this rate case, nor does Columbia satisfy the burdens of proof as required in Title 66 § 315. “[T]he burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.”

## II. APPLICABLE LEGAL STANDARDS

### A. The Commission's Order

From the Commission's order,<sup>1</sup> in part, issued at the Public Meeting held on April 14, 2022:

*"Investigation and analysis of this proposed tariff filing and **the supporting data indicate that the proposed changes in rates, rules, and regulations may be unlawful, unjust, unreasonable, and contrary to the public interest.** It also appears that consideration should be given to the reasonableness of Columbia's existing rates, rules, and regulations;"* [Emphasis added]

*"THEREFORE,*

*IT IS ORDERED:*

*1. That an investigation on Commission motion be, and hereby is, instituted **to determine** the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the **proposed** Supplement No. 337 to Tariff Gas Pa. P.U.C. No. 9.* [Emphasis added]

*\*\*\**

*4. That this investigation **shall** include consideration of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc.'s **existing** rates, rules, and regulations."* [Emphasis added]

### B. Title 66 § 319. The Code of Ethics.

*(a) General rule.--Each commissioner and each administrative law judge shall conform to the following code of ethics for the Public Utility Commission. A commissioner and an administrative law judge must:*

---

<sup>1</sup> <https://www.puc.pa.gov/pcdocs/1740597.pdf>

*(1) Avoid impropriety and the appearance of impropriety in all activities.*

*(2) Perform all duties impartially and diligently.*

*(5) Require staff and personnel subject to his direction to observe the standards of fidelity and diligence that apply to the commissioner and administrative law judge.*

The Commission with all its components had a duty to comply with the Commission's Order to determine the lawfulness, justness, and reasonableness of the proposed and existing rates, rules, and regulations ... The word settlement is not included in the order.

There is the impropriety of appearance and lack of due diligence to find out what the Commission wanted to find out.

The burden of proof of the utility is lightened considerably with hidden settlement talks and the burden of diligence I also lighten with settlement talks. The outcome of this approach, over the years, is exhibited in the Commission's Rate Comparison Report.

Code of Ethics are promises and assurance to the people of Pennsylvania, Commission's employees, and customers and employees of Columbia Gas.

Promises made must be kept. Consumer protection means consumer protection.

**C. Title 66 § 308. Bureaus and offices.**

**§ 308.2 provides various required functions of the PUC. These include:**

*(6) Insure adequate maintenance, safety and reliability of utility networks. 7) Insure adequate service quality, efficiency and availability at just and reasonable rates. (8) Conduct financial, management, operational and special audits. (9) Provide consumer information,*

*consumer protection... (11) Take appropriate enforcement actions, including rate proceedings, ... necessary to insure compliance with this title, commission regulations and orders. [Emphasis added]*

The Commission has the financial capability<sup>2</sup> mission<sup>3</sup> to ensure and provide an assurance level of Columbia's operations but investigations, auditing, enforcement, and effective internal controls are lacking but are prerequisites for determining just and reasonable rates.

The Commission, however, has not fulfilled these duties, let alone responsibly and competently. Given the major red flag of the Commission's Rate Comparison report, it is reckless to proceed with this rate case without the statutorily required functions to be adequately completed. A rate case does not provide the time nor capability of complainants to complete these functions on behalf of the Commission.

Work and requirements that are supposed to be addressed are simply ignored or omitted.

**D. Title 66 § 501. General powers.** (In part)

(a) Enforcement of provisions of part, [T]he commission shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its regulations, orders, ... of this part, and the full intent thereof;

(b) Administrative authority and regulations.--The commission shall have general

---

<sup>2</sup> The budget for Fiscal Year 2022-23 is \$80,091,000 in state funds and \$5,183,000 in federal funds, for a total of \$85,274,000. <https://www.puc.pa.gov/about-the-puc/>

<sup>3</sup> Part of the mission and operational requirements include 2 CFR 200 – Uniform Administrative Requirements – of which requires internal controls –GAO Green Book and audits – GAO Yellow Book.

administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth. The commission may make such regulations, not inconsistent with law, as may be necessary or proper...

(c) Compliance.--Every public utility, its officers, agents, and employees... subject to any regulations or orders of the commission or of any court, made, issued, or entered under the provisions of this part, shall observe, obey, and comply with such regulations or orders, and the terms and conditions thereof.

#### **E. The Rule of Law and Due Process**

For the rule of law in Pennsylvania, the U.S. and the Pennsylvania constitutions provide “due process”<sup>4</sup> or the equivalent “due course of law”.<sup>5</sup> Essentially no one is above the law but also no one is below the law. From the proceeding, it certainly appears Columbia is treated more favorably than Columbia’s customers, including Culbertson, and other gas distribution companies.

Columbia puts Culbertson at a complete disadvantage in this proceeding.

Settlement talks have occurred in secret, with others and agreements have been reached without Culbertson’s participation. These agreements are understood by other complainants to the extent they decided not to file a main brief.

What kind of justice is that for a potential minority opinion – keep out a possible minority opinion from settlement discussions? Then never ask him the question – does he agree or not agree

---

<sup>4</sup> The U.S. Constitution 5<sup>th</sup> Amendment

<sup>5</sup> Pennsylvania Constitution Article 1 § 11

with the settlement? Culbertson never got the opportunity to vote on the proposed settlement.

How can Culbertson adequately provide competent participation and completion of a main or reply brief when he has not been privy to the positions of other parties?

Promoting and the lack of full participation in settlement talks is another act and form of shaping the record.

If it is not in the record, it does not exist.

What is known -- The Main Brief of Columbia Gas of Pennsylvania ignored Culbertson's Formal Complaint.

When Culbertson tried to go in that direction, as the Commission ordered – to investigate. A good faith investigation never occurred as the Commission promised customers and the public.

The way this proceeding has gone, continuing Columbia's accelerated cost program another rate increase is a fait accompli, regardless of known and published facts of the Commission's Rate Comparison Report published on April 15, 2022.

Due process in some situations can be hard to explain – but sometimes not. There are norms for a sequence of events. Floor maintenance – sweep the floor before mopping the floor. For paying a restaurant tab – obtain the bill, look at the bill, calculate the tip, total, and pay. In rate making – the PUC must perform and consider before and during rate making the required ongoing and documented § 308.2 activities.

**F. PA Title 66 § 335. Initial decisions and release of documents.** Transparency of settlement talks is necessary under PA Title 66 § 335.

*“[W]henever the commission conducts an investigation of an act or practice of a public utility and makes a decision, enters into a settlement with a public utility or takes any other official action, as defined in the Sunshine Act, with respect to its investigation, it shall make part of the public record and release publicly any documents relied upon by the commission in reaching its determination.”* [Emphasis added]

Secret talks and material facts must be made transparent – for a public utility in a PUC rate case, there should be little need for non-disclosure agreements and redactions in official PUC documents. Ultimately complaints and customers need to know what the utility wants to keep secret – after all, public utilities are monopolies and have no competition. There is nothing in Title 66 that permits non-disclosure of a monopoly’s organization business operations.

## II. ARGUMENT

The Commission’s Order has not been satisfied.

*“Columbia’s Brief:*

*“V. ARGUMENT*

*A. REVENUE ALLOCATION*

*1. The revenue allocation agreed to by the Joint Petitioners to the Non-  
Unanimous Settlement is just and reasonable, in the public interest, and  
consistent with cost-causation principles, and should be approved.”*

Columbia’s argument that an undisclosed, unanimous settlement is just and reasonable, in the public interest is illogical.



How would anyone know, at this point, what is reasonable and just if the settlement and reasons for the settlement are not disclosed?

The proposed changes and existing rates, rules, and regulations are unlawful, unjust, unreasonable, and contrary to the public interest. Columbia had the burden of proof to show their rates were lawful, just, and reasonable – but they did not satisfy that burden – sure they may have reached an unknown settlement with some other complainants in this rate case – but that is not good enough. The norms and legal requirements of audits, investigations, and enforcement provided in the Pennsylvania Public Utility Law, Title 66 § 308.2 activities did not occur.<sup>6</sup>

The Commission’s order, in part, issued at the Public Meeting held on April 14, 2022: ...

***“Investigation and analysis of this proposed tariff filing and the supporting data indicate that the proposed changes in rates, rules, and regulations may be unlawful, unjust, unreasonable, and contrary to the public interest.”***

The Commission certainly knew how Columbia’s current rate compared with their peer group of gas distribution companies operating in Pennsylvania as the Commission’s Rate Comparison Report published on April 15, 2022<sup>789</sup>

This was no time to rush to settlement but an actual investigation as to why Columbia’s rates were substantially higher than other major gas distribution companies in Pennsylvania.

---

<sup>6</sup> Title 66 § 516 Audits ... includes financial and performance audits per the GAO Yellow Book – annual.

<sup>7</sup> <https://www.puc.pa.gov/filing-resources/reports/rate-comparison-reports/>

<sup>8</sup> Title 66 § 308.1. Consumer protection and information. (b) Rate comparison report. The rate comparison was meant to be also addressed to the public for their use but was not addressed to the public – the public was kept in the dark which was meant to minimize public participation in the rate case.

<sup>9</sup> Title 66 § 308.2. Other bureaus, offices and positions. (a) ... **to perform the following functions:**

Orders of the Commission mean things – facts included in rate comparisons mean things.

Natural Gas Analysis: The peer group for Columbia Gas, which excludes PGW and Peoples Gas LLC (They have been excluded because they are not homogeneous with the others ... e.g., size and ownership.)

Large NGDCs	Avg. Monthly Usage (Mcf)	Cost per Mcf (\$)	Avg. Monthly Bill (\$)
Columbia	7	18.31	128.16
PECO	6.7	10.02	67.13
National	8	10.65	85.16
Peoples	7	12.20	85.39
UGI	7	14.12	98.85
Mean Excl Columbia		46.99 / 4 = 11.75	336.53 / 4 = 84.13
<b>The data shows Columbia's costs are unreasonable compared to others. They would not be competitive in a competitive market.</b>		Columbia is 1.56 times higher than the mean.	Columbia is 1.52 higher than the mean.

Distribution Charge Residential Heating at 15 MCF

	Distribution Charge* *(\$)	Customer Charge**	Total
Columbia	131.08	16.75	255.48
PECO	67.22	13.63	172.08
National	38.61	12.00	140.58
Peoples	59.41	14.50	169.42
UGI	61.66	15.31	186.12
Mean Excl. Columbia Columbia's cost compared with peer group	226.9 / 4 = 56.73 or <b>2.31</b> -times others in their Peer group	55.44 / 4 = 13.86 Columbia is 1.21 times higher than their peer group,	668.2 / 4 = 167.05 or 1.53-times others in the peer group. A customer in Pittsburgh would have saved \$86.06 per month by going with Peoples or <b>\$1032.72 per year.</b>

			When Customers have a choice between Columbia and Peoples – Columbia’s rates and charges are unreasonable compared to Peoples.
--	--	--	--

\*Under the proposed increase, the total bill for a residential customer who purchases 70 therms of gas from Columbia per month, would increase from \$123.24 to \$135.67 per month, or by **10.09%.**”

\*\* Columbia’s proposed customer charge is \$24.75 or about a **48 percent increase. \$24.75 is almost double that of their peer group average.** Again if they were subject to competition, in a government environment, they would be determined to be outside of the competitive range and would not be considered as a supplier.<sup>10</sup>

Note: the amounts published in the comparison reports are unaudited by the PUC and may be unaudited by the utility.

2 CFR § 200.403 Factors affecting allowability of costs. These regulations apply to those receiving grants – The Commission receives significant Federal grant money thus it is subject to 2 CFR 200 – grants.

*Except where otherwise authorized by statute, costs **must** meet the following general criteria in order to be allowable ...*

*(a) Be **necessary and reasonable** for the performance ... and be **allocable** thereto under these principles.*

*2 CFR § 200.404 **Reasonable costs.***

*A **cost is reasonable** if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.*

*Whether the cost is of a type generally recognized as **ordinary and necessary** for the operation of the non-Federal entity or the proper and efficient performance...*

*(c) **Market prices for comparable goods or services for the geographic area.***

---

<sup>10</sup> <https://www.acquisition.gov/far/15.306> Federal Acquisition Regulation Part 15.306(b) The FAR is regulation when applicable but also provides the vetted norms of commerce in the United States.

From The Commission's Rate Comparison Report, Columbia's Rates, and the regulatory requirements applicable to the Commission and Columbia, Columbia's rates are unreasonable.

If Columbia were in a competitive procurement for services, based upon standard procurement processes – decision makers would preliminarily establish a competitive range for potential bidders. Columbia would receive little or no consideration because its cost is unreasonably high and does not provide sufficient offsetting benefits.

Columbia would find it hard to assert they may have a higher cost but provides much safer service.

Culbertson's complaints have not been investigated, even though he has called for a special investigation in the rate case and from the Commission.

Rate cases start with the implied assumption the Commission has fulfilled its legal duties.

*52 Pa. Code § 59.13 | Complaints.*

*(a) Investigations. **Each public utility shall make a full and prompt investigation** [Emphasis added] of complaints made to it or through the Commission by its customers.*

*(b) Records of complaints. Each public utility shall preserve written or recorded service showing the name and address of the complainant, the date and character of the complaint, and the adjustment or disposal made of the complaint. Records required by this chapter shall be kept within this Commonwealth at an office or offices of the utility located in the territory served by it, and shall be open for examination by the Commission or its staff.<sup>11</sup>*

---

<sup>11</sup><https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/052/chapter59/c/hap59toc.html>

52 Pa. Code § 59.13 | Complaints --Applies to rate case complaints as well as to other types of complaints. Complaints should not be processed solely by the legal department but by management – going all the way to the top to the Corporate Audit Committee of the Board of Directors.

Columbia had an opportunity to clarify what is allowable cost with his Interrogatory Set III addressed to Donald Brown CFO of NiSource, who has legal responsibility and liability for Columbia's internal control and financials, but Columbia objected, making Columbia's financials more suspect.

Columbia as well as the Commission has a duty to know and enforce allowable cost requirements as imposed by law, regulation, and directives. There must be an understanding that the Commission nor Columbia is not empowered to make specifically unallowable costs – allowable.

It is the duty of the Commission to enforce.

*Title 66 § 501. General powers.*

*(a) Enforcement of provisions of part --In addition to any powers expressly enumerated in this part, the commission shall have full power and authority, **and it shall be its duty to enforce**, [Emphasis added] execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this part, and the full intent thereof; and shall have the power to rescind or modify any such regulations or orders. The express enumeration of the powers of the commission in this part shall not exclude any power which the commission would otherwise have under any of the provisions of this part.*

The Culbertson Complaint in this rate case was not investigated by Columbia – this was an opportunity for honest self-correction by management. The ALJ should have required Columbia to investigate Culbertson's and other participants' complaints. That would have prompted management to investigate and self-correct based on the NiSource Code of Conduct.

From experience and reading Columbia’s Brief and the NiSource Code of Business Conduct, it appears customers of Columbia Gas of Pennsylvania and Culbertson have been dealing with two different companies ... *“and NiSource being known as a company that does the right thing. A Core Value – ‘DO THE RIGHT THING. Work and operate safely, always. Be ethical and honest in everything we do.’*

*“GOOD CITIZENSHIP AND COMPLIANCE WITH LAWS  
We take our legal obligations very seriously. We will strive to know, understand and comply with **all laws, rules and regulations.**”<sup>12</sup>*

The PUC Rate Comparison report raises major red flags with the Commission’s intent to protect customers from unjust, unreasonable, and unlawful rates and charges. Columbia's Main Brief (Page 7) *“1. The revenue allocation agreed to by the Joint Petitioners to the Non-Unanimous Settlement is just and reasonable, in the public interest, and consistent with **cost-causation principles**, [emphasis added] and should be approved...”*

This cost-causation principle is more commonly described in the Federal Cost Accounting Standard (CAS) 418 and other Cost Accounting Standards as a *“beneficial or causal relationship” ... “beneficial or causal relationship between supporting and receiving activities.”*<sup>13</sup>

---

<sup>12</sup> [https://www.nisource.com/docs/librariesprovider2/nisource-documents/nisource-policies/nisource-code-of-business.pdf?sfvrsn=6d89352\\_89#:~:text=Our%20Code%20of%20Business%20Conduct,we%20encounter%20as%20NiSource%20employees.](https://www.nisource.com/docs/librariesprovider2/nisource-documents/nisource-policies/nisource-code-of-business.pdf?sfvrsn=6d89352_89#:~:text=Our%20Code%20of%20Business%20Conduct,we%20encounter%20as%20NiSource%20employees.)

<sup>13</sup> [https://www.acquisition.gov/content/part-9904-cost-accounting-standards#Section\\_9904\\_403\\_40\\_T48\\_70102650126](https://www.acquisition.gov/content/part-9904-cost-accounting-standards#Section_9904_403_40_T48_70102650126)

So, for Columbia's proposed \$82.2 million in additional annual revenues. What causes Columbia to need \$82.2 million in additional annual revenues?

The investigation has not determined that because of Columbia's unaudited financial submissions are not reliable for rate-making decisions.

In accounting for GAAP and accounting under the Cost Accounting Standards costs are charged to cost objectives just as they are to cost objectives under 18 CFR 201. Allowable cost for Services (are for service lines (company owned) or Mains for mainlines. Costs included for Mains and Services are restricted to the definitions of those accounts in 18 CFR 201. In dealing with cost, it is not what an item looks like but what it does in fulfilling a purpose. A customer's service line for example (not utility-owned property), looks like a service line in appearance but the location may be different. A customer's service line is located on private property and is referred to as a "stub service"

**380 Services.**

*A. This account shall include the cost installed of service pipes and accessories leading to the customers' premises.*

*B. A complete service begins with the connection on the main and extends to but does not include the connection with the customer's meter. **A stub service extends from the main to the property line, or the curb stop.** [Emphasis added] [In Western Pennsylvania, Columbia provides stub services.]*

*C. Services which have been used but have become inactive shall be retired from utility plant in service immediately if there is no prospect for reuse, and, in any event, shall be retired by the end of the second year following that during which the service became inactive unless reused in the interim.*

As far as the phrase "shall be retired by the end of the second year" – here there are two issues –1. Retirement does not mean abandonment. GAAP requires a write-down if there

is an impairment. *The U.S. Generally Accepted Accounting Principles (GAAP) ASC 360-10-35-49* “A long-lived asset that has been temporarily idled shall not be accounted for as if abandoned.”

Costs charged to the 18 CFR 201 accounts must fit into the definitions of the accounts but also must be reasonable as all other recoverable costs.

*PA Title 66 § 1351. Definitions.*

*"Capitalized cost." Costs permitted to be capitalized pursuant to the Uniform System of Accounts and Generally Accepted Accounting Principles.*

Culbertson agrees with the concept of cost-causation principles in the allocation of cost and should be a consideration of in this and other rate cases.

*So, what are the causes of Columbia’s expenditures? There are several cost objectives of Columbia’s cost that may satisfy the requirements of reasonableness as required by 18 CFR 201*<sup>14</sup>

*E. All amounts included in the accounts prescribed herein for gas plant and operating expenses shall be just and reasonable and any payments or accruals by the utility in excess of just and reasonable charges shall be included in account 426.5, Other Deductions. (Disallowed costs are to be charged to 426.5 such as*

All costs of a distribution company may not be reasonable including accelerated costs of Columbia additional revenue is needed because of “its continued accelerated pipeline replacement program.” From Mr. Kempic’s Testimony<sup>15</sup> who is President of

---

<sup>14</sup> <https://www.law.cornell.edu/cfr/text/18/part-201>

<sup>15</sup> <https://www.puc.pa.gov/pcdocs/1737837.pdf>



Columbia Gas of Pennsylvania.

The acceleration of cost program is a cost objective and should be recognized and rightfully accounted for as unreasonable cost and charged to account 426.5.

The program has the purpose to meet the parent company's [NiSource] financial goals.<sup>16</sup>

Customers do not recognizable benefit from accelerated replacement of the pipe. Suitable for use pipe is suitable for use and there is no reason to replace this infrastructure until it is not suitable for use -- for the purpose for which they were acquired. Old infrastructure, including fully depreciated infrastructure, when properly installed maintained, and tested, can last years beyond its depreciated service life. The international standard in asset management requires optimization of value from assets.<sup>17</sup>

*3.3.1 asset management -- coordinated activity of an organization (3.1.13) to realize value from assets (3.2.1) [Emphasis added]*

*Note 1 to entry: Realization of value will normally involve a balancing of costs, risks (3.1.21), opportunities and performance (3.1.17) benefits.*

#### **NiSource Claims"**

***"These efforts included accelerating the replacement of leak-prone cast iron, wrought iron and bare steel pipe with modern plastic pipe in order to boost the safety and reliability of our gas system and reduce methane emissions."***

The NiSource /Columbia justification for the replacement of pipes is not reasonable – if Columbia were in a competitive business, they would not accelerate the

---

<sup>16</sup> <https://east.virtualshareholdermeeting.com/vsm/web?pvskey=NI2022>

<sup>17</sup> ISO 55000 -- <https://www.iso.org/obp/ui/#iso:std:iso:55000:ed-1:v2:en>

replacement of non-plastic pipes without just cause.

Replacement of pipes should be performed based upon reasonable criteria that provide the best value to customers that balance cost, benefits, safety, reliability, and customer affordability, but never maximization of corporate profits or corporate profit targets.

Does replacing suitable for use of wrought iron and bare steel pipe with plastic pipe improve safety – No. Pipeline distributions are inherently safe with some exceptions (Violations of One Call 811 requirements, non-compliant placement of meters under windows,<sup>18</sup> unprotected meters.) Safety justifications for accelerated replacements are expressed to scare the ignorant.

The facts.

<b>Substance<sup>19</sup></b>	<b>Molecular Weight</b>
air	28.966
Helium	4.003 or 14% of air
Natural Gas (primarily methane)	19.00 or 65.6% of air
Propane	42.081 or 145% of air

Gas explosions primarily occur when gas accumulates in an enclosed area in sufficient mixes of gas and air (5-15%) with some sort of spark. Gas leaks of rusty mains and service lines do not accumulate on the ground unless a service line is encased in an abandoned service line leading into a home.

The largest safety incidents for NiSource / Columbia Gas of Pennsylvania have

---

<sup>18</sup> 52 Pa. Code § 59.18. Meter, regulator and service line location.

<sup>19</sup> [https://www.engineeringtoolbox.com/molecular-weight-gas-vapor-d\\_1156.html](https://www.engineeringtoolbox.com/molecular-weight-gas-vapor-d_1156.html)

been caused by workmanship errors or NiSource relying on an obsolete database (installed in 1992) that is incapable of keeping records available, understandable, current, accurate, and complete. The Merrimack explosion (2018) was largely caused by poor records, the same for the Washington County explosion (2019).

Improving reliability. Does replacing metal pipe with plastic pipe improve reliability? NO!

PA Title 66 § 2202. Definitions.

*"Natural gas distribution service." The delivery of natural gas to retail gas customers utilizing the **jurisdictional facilities** of the natural gas distribution company. (A customer's service line is not a jurisdictional facility.)*

*"Reliability." <sup>20</sup> The term comprises adequacy and security. The term "adequacy" means the provision of sufficient volumes and deliverability of natural gas so as to supply the requirements of retail gas customers, taking into account peak and seasonal demands, as well as isolated market areas and system operation contingencies. The term "security" means designing, maintaining and operating a system so that it can safely handle extreme conditions as well as emergencies.*

Columbia's process of replacing metal service lines with plastic – does the opposite. Columbia generally will install a plastic service line into a larger old metal service line or customer's service line – thereby reducing the btus to the extent that customers cannot take advantage of more efficient ways of heating water through tankless water heaters. Installing undersized service lines appears to be common – an example is at the Culbertson property at 1608 McFarland Road, Dormont, PA.

---

<sup>20</sup> § 308.2 provides various required functions of the PUC. These include: (6) Insure adequate maintenance, safety and reliability of utility networks.

This is another area the Commission should have been aware of, investigated, and stopped to protect consumers. If Columbia has adequate records, it would be able to identify all the undersized service lines that cannot provide adequate reliability of energy to customers.

The Accelerated line replacement program of Columbia is similar to an opinion of the Government's takeover of student loans-- "flawed in concept, botched in execution, and draped in duplicity." <sup>21</sup>

The results of the flawed or unlawful accelerated pipeline replacement of Columbia are readily apparent in the Commission's Rate Comparison document. Columbia's rates – proposed and current are unjustifiable. This is like a proud leader who has strayed and is leading others into quicksand that is waste high and denies his situation ... but continues walking toward a disastrous result. The high rates for customers lead to no good – except ill-gotten gain for a few high-level managers and investors.

A deciding factor with Columbia's costs, are those cost actual legitimate costs and the applicability of the OMB's Cost Principles in 2 CFR 200.400 or the Federal Acquisition Regulations Part 31. These regulations have been vetted properly and define "reasonable costs". So if the 18 CFR 201 does not define reasonable cost, (about 1940 era

---

<sup>21</sup>Mitch Daniels. Sept. 1, 2022. [https://www.wsj.com/articles/student-loans-and-the-national-debt-higher-education-graduates-college-university-reform-government-biden-relief-cancellation-11662061187?mod=MorningEditorialReport&mod=djemMER\\_h](https://www.wsj.com/articles/student-loans-and-the-national-debt-higher-education-graduates-college-university-reform-government-biden-relief-cancellation-11662061187?mod=MorningEditorialReport&mod=djemMER_h)

regulation) these other Federal regulations do apply that guidance for governments, non-profits, and for-profit organizations. Columbia's accelerated costs are not actual legitimate costs, therefore those costs must be withdrawn from Columbia's rate base with appropriate adjustments in rates. Congress and OMB are the deciding organizations that determine what are allowable and unallowable costs in government-related arrangements, and DOE recognizes that in 2 CFR § 910.120 - Adoption of 2 CFR part 200.<sup>22</sup>

*§ 910.120 Adoption of 2 CFR part 200.*

*(a) Under the authority listed above, the Department of Energy adopts the Office of Management and Budget (OMB) Guidance in 2 CFR part 200,*

*"2 § 910.352 Cost Principles. For For-Profit Entities, the Cost Principles contained in 48 CFR 31.2 (Contracts with Commercial Organizations) must be followed in lieu of the Cost principles contained in 2 CFR 200.400".<sup>23</sup>*

These Cost Principles are required – for organizations that have entered into an arrangement with governments such as procurements for services and receiving grants, that make them subject directly or indirectly to 2 CFR 200.400 or Federal Acquisition Regulation (FAR) Part 31. Generally arrangements with states, their segment, and municipalities

---

<sup>22</sup> <https://www.law.cornell.edu/cfr/text/2/910.120>

<sup>23</sup> <https://www.law.cornell.edu/cfr/text/2/910.352>

There is no doubt that 2 CFR 200 applies to operations of the Commission – the Federal grant they receive is well above the applicability threshold. Also, PA’s Management Directives apply to Pennsylvania’s Commissions.

Columbia’s costs, as a gas public utility are subject to 18 CFR 201 18 CFR Part 201 - UNIFORM SYSTEM OF ACCOUNTS ..., which are under the regulatory responsibility of the Federal Energy Regulatory Commission. This Commission is an organization under the Department of Energy.

Like the person in quicksand – the prudent thing to do is not to get deeper into quicksand but to recognize their situation and back up and extract themselves to where they are on solid ground. That would be the right and honorable thing to do. Ultimately history will be the judge.

### III. Conclusion

Columbia and those involved with the undisclosed, Non-Unanimous Settlement have not observed, obeyed, and complied with the Commission’s Order of April 14, 2022, in this rate case.

No actual investigation occurred to satisfy the purpose of the Commission’s order.

*1. That an investigation on Commission motion be, and hereby is, instituted **to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Supplement No. 337 to Tariff Gas Pa. P.U.C. No. 9.** [Emphasis added]*

\*\*\*

4. That this investigation **shall include consideration of the lawfulness, justness, and reasonableness** of the Columbia Gas of Pennsylvania, Inc.'s **existing rates, rules, and regulations.**" [Emphasis added]

The Commission on April 15, 2022, released to leaders of the legislature the Commission's Rate Comparison Report, which shows drastic differences between Columbia's current rates and others in their peer group. That information was meant for consumers but was knowingly and deliberately kept from them. This harmed consumers and kept them in the dark as to how Columbia's rates were so much higher than other gas utilities in their peer group. Greater public participation in this rate case would probably have occurred if the public were provided those facts.

Suggested actions of the Administrative Law Judges and the Commission

- (1) Deny this proposed rate increase. Columbia failed in its required burden of proof that its rates and charges were just and reasonable. Whatever was included in the record did not outweigh the facts included in the Commission's Rate Comparison Report. A good audit team that should have had access to Columbia's financial and non-financial books and records would have been much more reliable in opinion than the experts that did not have access to those books and records.
- (2) Institute an actual independent, competent third-party investigation to specifically determine what portions of Columbia's rate bases are comprised of unreasonable costs or are not actual legitimate costs.
- (3) Take other appropriate actions to prevent and correct the prior errors, omissions, and possible wrongdoing.

Respectfully submitted by Richard C. Culbertson, Pro Se on September 2, 2022.

A handwritten signature in black ink, appearing to read "Richard C. Culbertson". The signature is stylized with a large initial "R" and a long horizontal stroke extending to the right.

**eFile**



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :

v.

Docket No.: R-2022-3031211

Columbia Gas of Pennsylvania, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Reply Brief** dated September 2, 2022, in the manner and upon the persons listed below:

**Served via Electronic Mail Only**

Deputy Chief ALJ Christopher Pell  
Administrative Law Judge John Coogan  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
[cpell@pa.gov](mailto:cpell@pa.gov)  
[jcoogan@pa.gov](mailto:jcoogan@pa.gov)

Theodore Gallagher, Esq.  
Columbia Gas of Pennsylvania, Inc.  
121 Champion Way, Suite 100  
Canonsburg, PA 15313  
[tjgallagher@nisource.com](mailto:tjgallagher@nisource.com)  
*Counsel for Columbia Gas of  
Pennsylvania, Inc.*

Amy E. Hirakis, Esq.  
Candis A. Tunilo, Esq.  
NiSource Corporate Services Co.  
800 N. Third Street, Suite 204  
Harrisburg, PA 17102  
[ahirakis@nisource.com](mailto:ahirakis@nisource.com)  
[ctunilo@nisource.com](mailto:ctunilo@nisource.com)  
*Counsel for  
Columbia Gas of Pennsylvania, Inc.*

Michael W. Hassell, Esq.  
Lindsay A. Berkstresser, Esq.  
Post & Schell PC  
17 North Second Street, 12th Floor  
Harrisburg, PA 17101-1601  
[mhassell@postschell.com](mailto:mhassell@postschell.com)  
[lberkstresser@postschell.com](mailto:lberkstresser@postschell.com)  
*Counsel for  
Columbia Gas of Pennsylvania Inc.*

Todd S. Stewart, Esq.  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)  
*Counsel for RESA/NGS Parties*

Mark C. Szybist, Esq.  
Natural Resources Defense Council  
1152 15<sup>th</sup> Street NW, Suite 300  
Washington, DC 20005  
[mszybist@nrdc.org](mailto:mszybist@nrdc.org)  
*Counsel for NRDC*

Jennifer E. Clark, Esq.  
Fair Shake Environmental Legal Services  
100 S. Juniper Street, 3<sup>rd</sup> Floor  
Philadelphia, PA 19107  
[jclark@fairshake-els.org](mailto:jclark@fairshake-els.org)  
*Counsel for NRDC*

Andrew J. Karas, Esq.  
Fair Shake Environmental Legal Services  
600 Superior Avenue East  
Cleveland, OH 44114  
[akaras@fairshake-els.org](mailto:akaras@fairshake-els.org)  
*Counsel for NRDC*

Charis Mincavage, Esq.  
Kenneth Stark, Esq.  
McNees Wallace & Nurick LLC

100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17101  
[cmincavage@mcneeslaw.com](mailto:cmincavage@mcneeslaw.com)  
[kstark@mcneeslaw.com](mailto:kstark@mcneeslaw.com)  
*Counsel for  
Columbia Industrial Intervenors*

John W. Sweet, Esq.  
Ria M. Pereira, Esq.  
Lauren N. Berman, Esq.  
Elizabeth R. Marx, Esq.  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101  
[pulp@putilitylawproject.org](mailto:pulp@putilitylawproject.org)  
*Counsel for CAUSE-PA*

Steven C. Gray, Esq.  
Office of Small Business Advocate  
555 Walnut Street  
1st Floor, Forum Place  
Harrisburg, PA 17101  
[sgray@pa.gov](mailto:sgray@pa.gov)

Thomas J. Sniscak, Esq.  
Whitney E. Snyder, Esq.  
Phillip D. Demanchick, Esq.  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
[tjsniscak@hmslegal.com](mailto:tjsniscak@hmslegal.com)  
[wesnyder@hmslegal.com](mailto:wesnyder@hmslegal.com)  
[pddemanchick@hmslegal.com](mailto:pddemanchick@hmslegal.com)  
*Counsel for The Penn State University*

Barrett C. Sheridan, Esq.  
Harrison W. Breitman, Esq.  
Lauren E. Guerra, Esq.  
Aron J. Beatty, Esq.  
Office of Consumer Advocate

555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101  
[OCAColumbiaGas2022@paoca.org](mailto:OCAColumbiaGas2022@paoca.org)

Joseph L. Vullo, Esq.  
Burke Vullo Reilly Roberts  
1460 Wyoming Avenue  
Forty Fort, PA 18704  
[jlvullo@bvrrlaw.com](mailto:jlvullo@bvrrlaw.com)  
*Counsel for  
Pennsylvania Weatherization Providers  
Task Force, Inc.*

Robert D. Knecht  
Industrial Economics, Inc.  
5 Plymouth Road  
Lexington, MA 02421  
[rdk@indecon.com](mailto:rdk@indecon.com)  
*Witness for OSBA*

Mark Ewen  
Industrial Economics, Inc.  
2067 Massachusetts Avenue  
Cambridge, MA 02140  
[mewen@indecon.com](mailto:mewen@indecon.com)  
*Witness for OSBA*

Lafayette Morgan  
Exeter Associates, Inc.  
10480 Little Patuxent Pkwy, Suite 300  
Columbia, MD 21044-3575  
[OCAColumbiaGas2022@paoca.org](mailto:OCAColumbiaGas2022@paoca.org)  
*Witness for OCA*

Jerome Mierzwa  
Exeter Associates, Inc.  
10480 Little Patuxent Pkwy, Suite 300  
Columbia, MD 21044-3575  
[OCAColumbiaGas2022@paoca.org](mailto:OCAColumbiaGas2022@paoca.org)  
*Witness for OCA*

David Garrett  
Resolve Utility Consulting PLLC  
101 Park Avenue, Suite 1125  
Oklahoma City, OK 73102  
[OCAColumbiaGas2022@paoca.org](mailto:OCAColumbiaGas2022@paoca.org)  
*Witness for OCA*

Roger Colton  
Fisher, Sheehan & Colton  
34 Warwick Road  
Belmont, MA 02478  
[OCAColumbiaGas2022@paoca.org](mailto:OCAColumbiaGas2022@paoca.org)  
*Witness for OCA*

Erika L. McLain  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 320526  
(717) 783-6170  
[ermclain@pa.gov](mailto:ermclain@pa.gov)

Richard C. Culbertson, Pro Se  
1430 Bower Hill Road  
Pittsburgh, PA 15243  
609-410-0108  
[Richard.c.culbertson@gmail.com](mailto:Richard.c.culbertson@gmail.com)