

November 17, 2022

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

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 Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.
Docket No. R-2022-3031211**

Dear Secretary Chiavetta:

Attached for filing is the Reply to the Answer of Columbia Gas of Pennsylvania, Inc. to Richard C. Culbertson's Motion to Expedite in the above-referenced proceeding.

This Reply is to be submitted directly to the Commission for their consideration as was my Motion.

The Commission's Order, <https://www.puc.pa.gov/pcdocs/1740597.pdf>, of May 14, 2022 "5. That the case be assigned to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision. The Administrative law Judges' have issued their Recommended Decision.

Copies will be provided per the attached Certificate of Service.

Respectfully submitted,



Richard C. Culbertson, Pro Se

Attachment

cc: Honorable Christopher P. Pell (*via email*)
Honorable John M. Coogan (*via email*)
Special Assistance
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).

VIA E-MAIL ONLY

Erika McLain, Esquire
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
ermclain@pa.gov

Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101
sgray@pa.gov

Aron J. Beatty, Esquire
Lauren E. Guerra, Esquire
Barrett C. Sheridan, Esquire
Harrison W. Breitman, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
abeatty@paoca.org
lguerra@paoca.org
bsheridan@paoca.org
hbreitman@paoca.org

John W. Sweet, Esquire
Ria M. Pereira, Esquire
Lauren N. Berman, Esquire
Elizabeth R. Marx, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org
Counsel for CAUSE-PA

Jerome D. Mierzwa
Exeter Associates, Inc.
10480 Little Patuxent Parkway
Suite No. 300
Columbia, MD 21044
jmierzwa@exeterassociates.com

Robert D. Knecht
Industrial Economics Incorporated
5 Plymouth Road
Lexington, MA 02421
rdk@indecon.com

Mark D. Ewen
Industrial Economics, Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140
mewen@indecon.com

Joseph L. Vullo, Esquire
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@bvrrlaw.com
*Counsel for PA Weatherization Providers
Task Force, Inc.*

Todd S. Stewart, Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tsstewart@hmslegal.com
Counsel for RESA/NGS Parties

Thomas J. Sniscak, Esquire
Whitney E. Snyder, Esquire
Phillip D. Demanchick, Jr., Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tjsniscak@hmslegal.com
wesnyder@hmslegal.com
pddemanchick@hmslegal.com
Counsel for The Pennsylvania State University

Andrew J. Karas, Esquire
Fair Shake Environmental Legal Services
600 Superior Avenue East
Cleveland, OH 44114
akaras@fairshake-els.org

Jennifer E. Clark, Esquire
Fair Shake Environmental Legal Services
100 South Juniper Street, 3rd Floor
Philadelphia, PA 19107
jclark@fairshake-els.org

Mark C. Szybist, Esquire
Natural Resources Defense Council
1152 15th Street NW, Suite 300
Washington, DC 20005
mszybist@nrdc.org

Charis Mincavage, Esquire
Kenneth R. Stark, Esquire
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108
cmincavage@mcneeslaw.com
kstark@mcneeslaw.com
Counsel for Columbia Industrial Intervenors

James L. Crist, P.E.
Lumen Group, Inc.
4226 Yarmouth Drive, Suite 101
Allison Park, PA 15101
JLCrist@aol.com

Constance Wile
922 Bebout Road
Venetia, PA 15367
cjazdrmr@yahoo.com

Jose A. Serrano
2667 Chadbourne Drive
York, PA 17404
Serranoj2@upmc.edu

Richard C. Culbertson
1430 Bower Hill Road
Pittsburgh, PA 15243
richard.c.culbertson@gmail.com

Date: November 17, 2022



Richard C. Culbertson, Pro se

**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	:	

**REPLY TO THE ANSWER OF COLUMBIA GAS OF
PENNSYLVANIA, INC. TO RICHARD C. CULBERTSON’S
MOTION TO EXPEDITE**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Preface:

Sometimes the rate case Recommended Decision does not turn out as ordered or expected and may not deliver a recommendation that protects the public.

The Commission suspected things may not be right with Columbia Gas of Pennsylvania as included in their Order;

“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;”

Because of the Commission’s investigation and analysis, Orders 1. and 4. Includes an investigation to determine the lawfulness, justness, and reasonableness of the existing and proposed rates, rules, and regulations – in more up-to-date words, these are the internal controls

of Columbia Gas. That would include Columbia's requirements of effective and efficient operations – including the protection of assets, reliable reporting – including financial and non-financial, and compliance with laws, regulations, standards, tariff ...

The Commission's Order applies to all participants of the rate case, especially Columbia Gas to permit reasonable access and evaluation of its operations to reach a reasonable conclusion.

The Commission does not always adopt an Administrative Law Judge's Recommendation. An example was with the Columbia Gas Rate Case R-2020-3018835 RECOMMENDED DECISION, Before Katrina L. Dunderdale, Administrative Law Judge <https://www.puc.pa.gov/pdocs/1686390.pdf>

“IT IS RECOMMENDED:

*1. That Columbia Gas of Pennsylvania, Inc. **shall not** place into effect the rates, rules, and regulations contained in Supplement No. 307 to Tariff Gas-Pa. P.U.C. No. 9, the same having been found to be unjust, unreasonable, and therefore unlawful.”*

On February 19, 2021, the Commission rejected Judge Dunderdale's Recommended Decision and adopted a staff recommendation as provided in the PUC Press Release, <https://www.puc.pa.gov/press-release/2021/puc-approves-smaller-than-requested-rate-increase-for-columbia-gas-of-pennsylvania>, and <https://www.puc.pa.gov/pdocs/1693872.pdf>. Instead of an ALJ's recommendation of no increase, the Commission provided an annual revenue increase of \$63.5 million (11.1%) to Columbia.

The expectation for the PA Legislature: Title 66 § 308.2.

*[T]he commission may establish other bureaus, offices and positions **to perform the following functions:** (6) Insure adequate maintenance, **safety and reliability** of utility networks. (9) Provide ... consumer protection.... (10) Insure adequate safety... , (11) Take appropriate enforcement actions, including rate proceedings, service proceedings*

and application proceedings, necessary to insure compliance with this title, commission regulations, and orders.

Establishing bureaus, offices and positions is legally discretionary. The requirement to perform the required actions of the functions is not discretionary.

*Title 66 § 1318. Determination of just and reasonable gas cost rates. ... No rates for a natural gas distribution utility shall be deemed just and reasonable **unless** the commission finds that the utility is pursuing a least cost fuel procurement policy, **consistent** with the utility's obligation to provide safe, adequate and reliable service to its customers.*

§ 2205. Duties of natural gas distribution companies.

(a) Integrity of distribution system.-- (1) Each natural gas distribution company shall maintain the integrity of its distribution system at least in conformity with the standards established by the Federal Department of Transportation and such other standards practiced by the industry in a manner sufficient to provide safe and reliable service to all retail gas customers connected to its system consistent with this title and the commission's orders or regulations.

*§ 2202. Definitions. "**Reliability**." 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 in this rate case proceedings was successful, by clever lawyering avoided being accountable for internally known material weaknesses of the safety and integrity of their distribution system. The main safety element of a distribution system is the placement of valves - curb valves and otherwise. Valves control the flow of gas energy. Just as in car breaks – they are useless except when the operator needs to stop the car. Valves are needed to stop the flow of gas, especially in extreme conditions and emergencies.

The Commission must always, regardless of an ALJ's recommendation, consider and evaluate Columbia's safety approach – unsafe conditions are hazardous to people, property, and the environment. Those protections for the public are paramount.

Columbia's safety status is or should be of major concern. Delays in corrective actions

cost lives – maybe not today but eventually. Safe infrastructure is built in, but so is unsafe infrastructure. This rate case recommendation – sidesteps safety concerns of the most qualified ... employees of Columbia, the “operator qualified” per 49 CFR Part 192, Subpart N - Qualification of Pipeline Personnel. These employees of Columbia Gas had a story to tell ... in hopes safety would be improved at Columbia.

49 CFR Part 192, Subpart N - Qualification of Pipeline Personnel

§ 192.801 Scope. (a) This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

(b) For the purpose of this subpart, a covered task is an activity, identified by the operator, that: (1) Is performed on a pipeline facility; (2) Is an operations or maintenance task; (3) Is performed as a requirement of this part; and (4) Affects the operation or integrity of the pipeline.

§ 192.803 Definitions.

***Abnormal operating condition** means a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:*

*(a) Indicate a condition exceeding design limits; or (b) **Result in a hazard(s) to persons, property, or the environment.***

***Evaluation** means a process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following: Written examination;*

Oral examination;

(c) Work performance history review;

(d) Observation during:

(1) Performance on the job,

(2) On the job training, or

(3) Simulations;

(e) Other forms of assessment.

Qualified** means that an individual has been evaluated and can: Perform assigned covered tasks; and **Recognize and react to abnormal operating conditions.

[Amdt. 192-86, 64 FR 46865, Aug. 27, 1999, as amended by Amdt. 192-90, 66 FR 43523, Aug. 20, 2001]

From Columbia:

Columbia Gas of Pennsylvania, Inc. (“Columbia”), by and through its attorneys, hereby files this Answer, pursuant to 52 Pa. Code § 5.61, to Richard C. Culbertson’s October 24, 2022 “Motion to the Commission to Expedite Determinations Regarding the Pipeline Safety Including the Regulatory Required Installation, Maintenance, and Use of Utility-Owned Curb Valves as

Connected to Service lines” (hereinafter, “Motion”). Simultaneously with this Answer, Columbia is filing a Motion to Strike Mr. Culbertson’s Motion because Mr. Culbertson’s Motion is an improper attempt to introduce material that is not in the record. In the event that Columbia’s Motion to Strike is not granted, Columbia requests that Mr. Culbertson’s Motion be denied for the reasons explained herein. In support of its Answer, Columbia states as follows:

INTRODUCTION

1. In his Motion, Mr. Culbertson requests that the Commission expedite its determination on Mr. Culbertson’s alleged safety concerns regarding the installation of curb valves. This issue is currently pending before the Commission as part of Columbia’s 2022 Base Rate proceeding at this docket.

Culbertson Reply: Responses to safety concerns must be addressed expeditiously, especially when Columbia denies obvious safety deficiencies. Reckless behavior and unsafe conditions can put lives, property, and the environment at risk.

2. The installation of curb valves was addressed in the rebuttal testimony of Columbia witness Kempic. *See* Columbia St. No. 1-R, pp. 18-19. The Bureau of Investigation and Enforcement’s (“I&E”) witness Merritt also presented testimony on curb valves. *See* I&E St. No. 1-R, pp. 18-19. Mr. Culbertson did not present any testimony or exhibits or any evidence whatsoever for the record in this proceeding, including any evidence with respect to curb valves.

Culbertson Reply: Mr. Kempic and Mr. Merritt are not “qualified” per 49 CFR Part 192, Subpart N - Qualification of Pipeline Personnel to address and apparently by their testimonies, are not aware of are deliberately or willfully ignorant of the applicable DOT Regulation, 49 CFR § 192.385 Manual service line shut-off valve installation. And, how in Pennsylvania a service line ends at the curb valve or property line where the

customer's service line starts.

49 CFR § 192.385 Manual service line shut-off valve installation.

(a) *Definitions. As used in this section:*

Manual service line shut-off valve means a curb valve or other manually operated valve located near the service line that is **safely accessible** to operator personnel or other personnel authorized by the operator to manually shut off gas flow to the service line, if needed.

(b) *Installation requirement. The operator must install either a manual service line shut-off valve or, if possible, based on sound engineering analysis and availability, an EFV for any new or replaced service line with installed meter capacity exceeding 1,000 SCFH.*

(c) *Accessibility and maintenance. Manual service line shut-off valves for any new or replaced service line **must be installed in such a way as to allow accessibility during emergencies.** Manual service shut-off valves installed under this section are subject to regular scheduled maintenance, as documented by the operator and consistent with the valve manufacturer's specification.*



As an example: The Columbia service line to this property has no curb valve. It does have valves before and after Columbia's meter. But, those valves do not ***“allow [safe] accessibility during emergencies.”***

Applicable law and regulations are not evidence – Columbia, its lawyers, the ALJ's, the Commission's Investigation and Enforcement (I&E) lawyer, and I&E's expert should be well aware of the laws and regulations regarding the requirements to install curb valves.

Columbia's and I&E's position is that curb valves are discretionary -- that position is not consistent with DOT Safety Regulations, Pennsylvania Public Utility Law,

or the Commission’s regulations. Unfortunately for the people of Pennsylvania and Customers of Columbia. The standard for being qualified is that an individual has been evaluated and can: Perform assigned covered tasks; and **Recognize and react to abnormal operating conditions.** Kempic and Merritt have shown they do not “recognize and react to abnormal operating conditions”. The Commission should investigate and find out why and how big is this problem.

3. Columbia and Mr. Culbertson filed Main Briefs and Reply Briefs regarding the issues raised by Mr. Culbertson in this proceeding, including the issue of curb valves. I&E filed a Reply Brief regarding the curb valve issue.

Culbertson Reply: No comment.

4. On September 30, 2022, Deputy Chief Administrative Law Judge Pell and Administrative Law Judge Coogan (the “ALJs”) issued a Recommended Decision (“RD”) recommending that the Commission deny Mr. Culbertson’s Complaint in its entirety. Specifically, the RD rejected Mr. Culbertson’s alleged safety concerns regarding the installation of curb valves. *See* RD, p. 116.

Culbertson Reply: No comment.

5. On October 14, 2022, Mr. Culbertson filed Exceptions to the RD addressing, *inter alia*, the issue of curb valves. On October 21, 2022, Columbia and I&E filed Replies to Mr. Culbertson’s Exceptions. Mr. Culbertson’s Exceptions and Columbia’s and I&E’s Replies are currently pending before the Commission.

Culbertson Reply: The Commission’s rate case process is only one tool the Commission can use to arrive at just and reasonable rates. Unfortunately, there is an over-reliance on the rate case process. The rate case process favors public utilities. The average customer has no chance

against a lawyer-up public utility. The public at this point doesn't even try -- that shows with the lack of participation in public input hearings.

It may be instructive for the Commission to go through the Culbertson submissions of Sets I, II, and III of interrogatories. Set I was addressed to George Milligan the Columbia Employee who has safety concerns about Columbia's operations. Columbia refused to cooperate. Set II was addressed to C.J. Anstead, Vice President and General Manager of Columbia Gas of Pennsylvania. These interrogators focused on safety and the production of documents. Very little was provided. Set III was addressed to the Chief Financial Officer of NiSource – who is legally responsible to establish the internal controls over financial reporting for the parent company of Columbia.

The ALJs denied access to this material information. For Columbia, their attorneys, and the ALJs' – mission accomplished no evidence is included in the record. The treatment of Culbertson probably had some chilling effect on other participants of this rate case.

The document below provides how the discovery of important safety issues was addressed in the proceeding.

Interrogatories:



RE R-2022-3031211
Columbia Gas Rate C



PA PUC v. Columbia
Columbia's Objections Gas of PA Inc.; Docke



1752573 Motion to
Compel Sets I - II - II

To adequately determine what is lawful, just and reasonable rates and charges for customers requires all the functions identified in the Public Utility Code, especially those identified in PA Title 66 § 308.2.

The Commission, instead of providing deference to the ALJs and the utility, the Commission should take a more holistic approach to achieve its requirements. In Generally Accepted Accounting Principles (GAAP) there is the concept of “*financial substance over legal form*” In writing regulations and standards it is the performance of the desired outcome over a specified process. The only way to address safety issues is to address safety issues. Avoiding safety issues will not solve safety issues.

The PUC certainly knows and prioritized safety in its regulations 52 Pa. Code § 59.33. Safety.

(a) Responsibility. Each public utility shall at all times use every reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers and others may be subjected to by reason of its equipment and facilities.

(b) Safety code. The minimum safety standards for all natural gas and hazardous liquid public utilities in this Commonwealth shall be those issued under the pipeline safety laws as found in 49 U.S.C.A. § § 60101—60503 and as implemented at 49 CFR Parts 191—193, [192 PART 192 - TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS] 195 and 199, including all subsequent amendments thereto. Future Federal amendments to 49 CFR Parts 191—193, 195 and 199, as amended or modified by the Federal government, shall have the effect of amending or codifying the Commission’s regulations with regard to the minimum safety standards for all natural gas and hazardous liquid public utilities.

This was good work by the Commission.

Commissioners need to understand that Columbia’s management and I&E contend the current approach of not installing curb valves is safe enough for ratepayers.

In an emergency –say an over-pressurization event – like the ones with Columbia Gas of Massachusetts or the one with Columbia Gas of Pennsylvania in Washington County.

How is the homeowner to shut off the gas to the home?

Go to the meter – there is a shut-off valve – but what kind of tool is required to shut the valve? It requires a large tool; common practice is to use a 12” Crescent Wrench – but most homeowners do not have one or which way to turn the valve.

If they do, frequently these are old meters, and the valve is very difficult to turn, and they are not maintained in the same way as curb valves.

Next step, try to turn off the curb valve. But only less than one in a thousand homeowners have a tool to turn it off. The fire department may.

Volunteer firemen maybe not be too anxious to get close to a home being filled with gas that is about to explode.

If the utility worker has the right tool, they can shut off the gas at the curb valve.

If they do not, another alternative is to try to find and dig up the customer’s service line at the curb. If the line is plastic, it may be inside a larger metal pipe. If it is an old plastic customer’s service line; the plastic may not be as pliable as a new plastic pipe, so crimping may be difficult. If the line is more than a low-pressure line, more gas will escape during the crimping process.

All these variables can lead to confusion and disaster in an emergency.

Unsafe conditions resulting from error, ignorance, or reckless action must not be tolerated – from public utilities, contractors, their lawyers, or the Commission’s employees.

II. **MR. CULBERTSON'S REQUEST FOR AN EXPEDITED RULING ON THE CURB VALVE ISSUE SHOULD BE DENIED.**

6. In his Motion, Mr. Culbertson argues that the Commission should expedite its determination on the curb valve issue and make a ruling on this issue prior to ruling on the remaining issues in the base rate case because the curb valve issue pertains to an alleged safety concern. Motion, p. 14. Mr. Culbertson's request should be denied because the record is clear that no safety issue exists, and therefore, an expedited ruling is not necessary.

Culbertson Reply: It is never too soon to correct unsafe conditions, particularly those that have systemic root causes. The NTSB in their report that applies to Columbia Gas of Pennsylvania required a licensed professional engineer (P.E.) approval and stamp on certain work packages. Any contentious safety issues should have been signed off by a P.E. Those who testified do not appear to have those credentials. It certainly does not help their credibility when their testimonies omit the applicable safety standard *49 CFR § 192.385 Manual service line shut-off valve installation*.

7. The sole basis for Mr. Culbertson's request for an expedited ruling is his concern with respect to Columbia's practice of installing of curb valves. However, Mr. Culbertson's concern is not supported by any evidence. To the contrary, the un rebutted evidence in this case clearly demonstrates that no safety issue exists on Columbia's system. Both Columbia witness Kempic and I&E witness Merritt explained that Columbia's practice complies with the applicable safety regulations. *See* Columbia St. No. 1-R, pp. 18-19 and I&E St. No. 4-SR, pp. 10-11. Specifically, Mr. Kempic testified that a meter valve

enables quicker shutoff during priority situations since it is located above ground and next to the meter, which makes it easy to locate for a quick resolution. A curb valve, on the other hand, is not in plain sight or near the meter, and often requires Company personnel to be called out to locate it. *See* Columbia St. No. 1-R, pp. 18-19 and I&E St. No. 4-SR, pp. 10-11. Specifically, Mr. Kempic testified that a meter valve enables quicker shutoff during priority situations since it is located above ground and next to the meter, which makes it easy to locate for a quick resolution. A curb valve, on the other hand, is not in plain sight or near the meter, and often requires Company personnel to be called out to locate it. *See* Columbia St. No. 1-R, pp. 18- 19. No party, including Mr. Culbertson, presented any evidence in response to Mr. Kempic's and Mr. Merritt's testimony on curb valves.

Culbertson Reply: There is no dispute that Columbia is installing service lines with no curb valves. The dispute is when Columbia does not install curb valves as Mr. George Milligan, Columbia's employee, testified -- is that omission non-compliant with the Federal Safety Standards, Pennsylvania Public Utility Code, and the PUC regulation on safety as referenced above? The answer is Yes.

Culbertson does not have the responsibility to prove various laws and regulations exist. Culbertson also does not have to prove the condition is unsafe or the law is just. This issue is no more complicated than driving a car with no emergency brakes. It would be self-evident and dangerous to drive a car without emergency brakes. Adequate safeguards and the necessary safety integrity have not been built into Columbia's distribution system when curb valves are not installed. On important safety

issues, redundancy is an asset and a best practice.

OSHA has issued a standard concerning “The control of hazardous energy (lockout/tagout).” <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.147> Organizations are required to have such a plan and process that protects employees, customers, and the public. The standard has a given that the proper switches and valves have been installed into the system that produces or uses hazardous energy. But for Columbia, that given expectation would be incorrect. Not putting in the proper safeguards is hazardous to people and property.

The right thing to do for Columbia/ NiSource is to investigate and recognize the non-compliant and dangerous practice of not installing sufficient curb valves. Notify the NiSource probation officer – that may be another violation of the Pipeline Safety Act. Establish a corrective action plan to protect the public, and submit the plan as the Commission designates. No party, including Mr. Culbertson, presented any evidence in response to Mr. Kempic’s and Mr. Merritt’s testimony on curb valves.

Culbertson Reply: See the reply for 7. These other parties may not have the technical expertise in pipeline integrity – they also were chilled with the treatment when Culbertson raised the issue in his intimal interrogatories. The time to collect reliable evidence was during discovery – and those efforts were denied as Columbia intended and achieved.

8. As explained in Columbia’s Replies to Exceptions, the RD correctly rejected Mr. Culbertson’s position on curb valves because Mr. Culbertson failed to present any evidence to support his claims that a safety issue exists. *See* Columbia Replies to Exec., p. 22. Given that Mr. Culbertson has failed to substantiate his claims regarding curb valves with any evidence whatsoever, his request for an expedited ruling on the basis of safety concerns is not justified.

Culbertson Reply: It is not Culbertson’s responsibility as an individual customer or interested party to do the work of the Commission’s employees, individually or collectively to protect the public. It is the Commission’s responsibility and duty to enforce its regulations and ensure safety.

*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**, execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this part,*

*§ 308.2. -- to **perform** the following functions:*

*(6) **Insure** adequate maintenance, **safety and reliability of utility networks.***

*(11) **Take appropriate enforcement actions, including rate proceedings,** service proceedings and application proceedings, **necessary to insure compliance with this title, commission regulations and orders.***

9. In his Motion, Mr. Culbertson attempts to support his request for expedited treatment with various material that is not part of the record and that is irrelevant to Columbia’s system. Mr. Culbertson cites several news articles, material regarding an incident on the system of an unrelated gas utility, various photos of a property that Mr. Culbertson claims he “may try to purchase,” the Plumber’s Guide, and a PHMSA letter from 1989. Motion, pp. 1-14. As Columbia explained in its Motion to Strike, none of this material should be relied on in reaching a determination in this case because it is not part of the record. Moreover, none of this material is relevant to Columbia’s system, nor

does it support Mr. Culbertson's position that there is an existing safety issue on Columbia's system that would warrant an expedited ruling by the Commission.

Culbertson Reply: The Commission has a greater responsibility than to rigidly follow or comply with the tone and orders of their administrative law judges, especially ones that strayed from the orders given for an investigation. Make no – mistake, this was not an investigation this was an exercise to achieve a settlement of the proposed increase. This rate case proceeding did not address just and reasonable existing rates. Mr. Milligan, Columbia's employee, raised the issue of the unsafe practice of Columbia.

The sworn testimony of Mr. Milligan also brought exposure to the Commission and Columbia Gas. The U.S. Sentencing Commission Chapter 8 – Sentencing Organizations, which was prompted by the Sarbanes Oxley law and applies to the Commission and Columbia. It applies to *corporations, governments and political subdivisions thereof.*

<https://www.ussc.gov/guidelines/2018-guidelines-manual/2018-chapter-8>

This document pertains to sentencing organizations for wrongdoing, such as Columbia Gas of Massachusetts and parent NiSource for violations of the Pipeline Safety Act for the death, injury, explosions, and fires in the Merrimack Valley on September 13, 2018. The document also describes and provides requirements for an effective compliance program. It is always better to prevent wrongdoing than to recover from wrongdoing. The document provides culpability for responsible individuals within the organization, and defines frequently used terms:

*-An individual "**condoned**" an offense if the individual knew of the offense and did not take reasonable steps to prevent or terminate the offense.*

*-An individual was "**willfully ignorant of the offense**" if the individual did not investigate the possible occurrence of unlawful conduct despite knowledge of circumstances that would lead a reasonable person to investigate whether unlawful conduct had occurred.*

The direction of this rate case after hearing Mr. Milligan's sworn public testimony should have caused the Commission and Columbia's management to investigate, but they did not. They are left with – either they condoned or were willfully ignorant of the unsafe practice of not installing the required curb valves between service lines and customer's service line. When Columbia and the ALJs stopped inquiry into Columbia's safety practices with the Culbertson interrogatories Set I and Set II with the ALJ's recommendation to the Commission to not investigate ... this placed the Commission in a very compromising, exposed, and conflicting position.

Regardless, this bad situation presents an easy and obvious determination by the Commission. Safety issues do not get washed away or hidden in a black box settlement. The Commission must enforce its own order of May 14, 2022 – investigate. This investigation should be performed by a competent and trustworthy third party.

10. If the Commission considers any of the extra-record material identified in

Paragraph 9 of this answer in ruling upon Mr. Culbertson's late-filed Motion, Columbia respectfully requests, as a matter of due process, that it be provided an opportunity to present evidence to rebut this material.

Culbertson Reply: The Pennsylvania public utility law gives extraordinary powers to the Commission. The Commission is independent of its administrative law judges and can overrule or accept, or reject recommended decisions.

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**, 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.*

Due process is brought by Constitutional rights and the application to actual persons and certain organizations. Due process should be applied equally. Some fundamental requirements did not occur before and during this rate case. Many elements of required functions in Title 66 § 308.2 did not adequately occur. Per PUC Commission regulation § 59.13. *Complaints.*

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

That internal investigation never occurred nor was enforced, thus violating the people's due process expectations and rights. Under due process, Columbia/NiSource should have conducted those investigations. Company management – all the way to the NiSource Board of Directors was responsible for those investigations.

The right timing for Columbia to respond would be after an independent audit or investigation. The existence of applicable laws and regulations relating to pipeline safety is already self-evident. It is in the public interest to get to the bottom of safety issues with Columbia's operations and an environment that may be stifling self-correction.

III. CONCLUSION

WHEREFORE, Columbia Gas of Pennsylvania, Inc. respectfully requests that Deputy Chief Administrative Law Judge Pell and Administrative Law Judge Coogan deny Mr. Culbertson's Motion to expedite the Commission's ruling on the curb valve issue.

Culbertson Reply: Based upon this Reply to the Answer of Columbia Gas of Pennsylvania, Inc. to Richard C. Culbertson's Motion to Expedite the determination of safety issues brought in this rate case, Culbertson respectfully requests the Commission send a message to Columbia Gas, other public utilities that safety requirements under the Commission's jurisdiction will not be ignored, avoided, circumvented, denied or violated either by the Commission's employees, y public utilities or their agents. Along with this, Culbertson

requests that the Commission review and strengthen its internal controls as well as internal controls of public utilities that can provide reasonable assurance the Commission makes all reasonable and necessary efforts to protect the public.

Finally, due process should not be used to encourage willful ignorance or the condoning of wrongdoing. The Commission must always exercise acute situational awareness of issues under their jurisdiction, regardless of the source. The Commission must reject abuses of the administrative court processes and always act with fidelity and diligence in doing right by the people of Pennsylvania. When this rate case is concluded, Columbia employee, George Milligan who gave sworn public testimony, will have a story for the people of Pennsylvania of either hope or despair. The Commission will write that story for him.

Respectfully submitted,



Richard C. Culbertson, Pro Se
1430 Bower Hill Road
Pittsburgh, PA 15243

Date:
November 17, 2022