May 16, 2022

VIA ELECTRONIC FILING

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

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

Dear Secretary Chiavetta:

Attached for filing are my Replies to Columbia's Answers to my Complaint C-2022-3032203 associated with **Docket Nos. R-2022-3031211**. Copies will be provided per the attached Certificate of Service.

Respectfully submitted,

Richard C. Culbertson

Attachment

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

CERTIFICATE OF SERVICE

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

VIA E-MAIL ONLY

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

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

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

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

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

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.

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

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

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

Theodore Gallagher (ID # 90842)
Columbia Gas of Pennsylvania, Inc.
121 Champion Way, Suite 100
Phone: 724-416-6355
Fax: 724-416-6384
E-mail: tjgallagher@nisource.com

Amy E. Hirakis (ID # 310094)
800 North 3rd Street
Suite 204
Harrisburg, PA 17102
Phone: 717-233-1351

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
jas673@hotmail.com

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

Michael W. Hassell (ID # 34851)
Lindsay A. Berkstresser (ID # 318370)
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: mhassell@postschell.com
E-mail: lberkstresser@postschell.com

E-mail: ahirakis@nisource.com

Date: May 16, 2022

Richard C Culbertson

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 By Richard C. Culbertson to:

Columbia Gas of Pennsylvania, Inc
ANSWER AND NEW MATTER OF COLUMBIA GAS OF PENNSYLVANIA, INC.
TO THE COMPLAINT OF RICHARD C. CULBERTSON

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Columbia Gas of Pennsylvania, Inc. ("Columbia" or the "Company") files this Answer and New Matter to the Complaint of Richard C. Culbertson against Columbia's base rate case filed at Docket No. R-2022-3031211, pursuant to Sections 5.61(d) and 5.62 of the Pennsylvania Public Utility Commission's ("Commission") regulations, 52 Pa. Code §§ 5.61(d) and 5.62, and responds to each of the separately-numbered paragraphs as follows:

Culbertson Reply:

Overview: The Culbertson Complaint includes multiple serious issues with Columbia's proposed and existing rates. The Culbertson Complaint is consistent with the Commission's concerns as expressed in their Order of 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; https://www.puc.pa.gov/pcdocs/1740597.pdf*

On April 15, 2022, the Commisssion released their annual Rate Comparison Report. https://www.puc.pa.gov/media/1893/rate_comparison_report_2022.pdf

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 their peer group	226.9 / 4 = 56.73 or **2.31**-times others in their Peer group	55.44 /4 = 13.86 Columbia is 1.21 times higher than the peer group. Columbia proposes this charge to be increased to **$24.75 or 1.79 times the average of others in 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 **$1032.72 per year. But Columbia wants more!** When Customers have a choice between Columbia and Peoples – Columbia's rates and charges are unreasonable compared to Peoples.

Columbia's answer to the statutory required Rate Comparison Report (66 Pa. C.S. §308. 1(b)) — "**It is denied that the rates of other utilities are relevant to this case."** This is when the title of the statute is 66 Pa. C.S. **§ 308.1. Consumer protection and information.**

The Term "denied" or "denies" is used 93 times. Many of Columbia's answers are absurd, evasive or shows a lack of understanding of their business. It has the tone –"I give you nothing" and the NEW MATTER presents a series of assertions that are false, speculative and reckless. Columbia

asserts they know Culbertson's personal affairs to the extent Culbertson has no standing or interest in this rate case and wants his complaint to be immediately dismissed. That is not the type of behavior that should be expected from a public utility that claimed it was one of the most ethical companies in the world. Columbia's primary duty to service the public interest of the people of Pennsylvania and its customers.

As an example of Columbias answers, in Culbertson's complaint items J. and K. address the legal requirement (66Pa.C.S. § 1301) **that rates be "just and reasonable". Columbia answers in K *"Columbia is without sufficient information to form an opinion on what the public can or cannot discern from the words "just and reasonable.""* How can that be given the primary action of a public utility in a rate case is to show proof that their rates are "just and reasonable" per 66Pa.C.S. § 315 *"the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility."***

If Columbia cannot discern the meaning of the terms of just and reasonable and how those terms apply to the public, there is a more serious matter before the Pennsylvania Public Utility Commission – maybe Columbia should not be providing service in Pennsylvania.

If Columbia does not understand those terms, they certainly cannot prove their rates are just and reasonable, Columbia's proposed rates should be denied – now.

Given the nature of Columbia's answers and NEW MATTER, Culbertson still has attempted to provide Replies to Columbia's Answers truthfully, concisely and in good faith.

Columbia's attitude, behavior and disrespect for a customer/ private citizen in this and other rate case shows why independent audits are so important. Columbia would never treat an external auditor in the manner Culbertson has been treated. **https://www.sec.gov/rules/final/34-47890.htm** On July 30, 2002, the Sarbanes-Oxley Act of 2002 (the "Act")2 was enacted. Section 303(a) of the Act states:

It shall be unlawful**, in contravention of such rules or regulations as the Commission shall prescribe as necessary or appropriate in the **public interest** and for the protection of investors, for any officer or director of an issuer, or any other person acting under the direction thereof, to take **any action to fraudulently influence, coerce, manipulate, or mislead** any independent public or certified accountant engaged in the performance of an audit of the financial statements of that issuer **for the purpose of rendering such financial statements materially misleading.

The Sarbanes Oxley law does not apply to Culbertson and probably to state auditors, which shows why competent certified public accounts (CPA)s are needed to audit Columbia's financials.

Columbia's answers not consistent with what is expected from a trusted public utility before a PUC rate case, nor the NiSource Code of Business Conduct. The Code provides *"our core values that are central to living Our Promise – fairness, honesty, integrity and trust."* The reconstituted NiSource Board's Audit Committee should review the contents of the Commission's Order, Culbertson's Formal Complaint and these answers, and replies from Columbia and validate or reject the approach Columbia is taking in this rate case. A proposed $82.2 rate increase is a material amount as well Columbia's process to achieve that amount for the Board's Audit Committee to consider.

Introduction:

Culbertson takes no pleasure being a Complainant in this rate case but believes it is his duty to do so for the public interest. Pennsylvania public utility law sets forth the nature and content of complaints in 66 Pa. C.S. *§ 701. Complaints.*

*The commission, or **any person**, corporation, or municipal corporation having an **interest** **in the subject matter,** or any public utility concerned, may complain in writing, **setting forth any act or thing done or omitted to be done** by any public utility **in violation, or claimed violation**, of any **law which the commission has jurisdiction to administer, or of any regulation or order of the commission.** Any public utility, or other person, or corporation likewise may complain of any regulation or order of the commission, which the complainant is or has been required by the*

commission to observe or carry into effect.

The term "interest" is not meant to be ownership as in invested interest. It means something less than a stakeholder. Interest can be of a tangible or intangible nature. If a person submits a complaint – that is an indication that the person is interested "***in the subject matter***." The language of the law speaks for itself.

PA PUC regulation "52 Pa. Code § 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."*

The Culbertson complaint sets forth acts done and in violation or claimed violations consistent with 66 Pa. C.S. § 701. Complaints. The nature and processing of complaints by Columbia must be consistent with PUC regulation 52 Pa. Code § 59.13, Complaints. Columbia's outside council is an advocate of Columbia and their answers are not an appropriate substitute for Columbia's full and prompt investigation. "Investigation" is an ordinary term and requires to be conducted in accordance with generally accepted investigative standards proportionate to the amounts involved. A good guide for investigations for example is the U.S. Department of Justice Criminal Division Evaluation of Corporate Compliance Programs https://www.justice.gov/criminal-fraud/page/file/937501/download

So, instead Columbia's getting the participants sidetracked on court legal procedure, processes and non-answers, they should be starting the required investigation and collecting proof to show their rates are just and reasonable. 66 Pa. C.S. § 315. *"Burden of proof…. the burden of proof to* ***show*** *that the rate involved is* ***just and reasonable shall be upon the public utility."***

When does Columbia expect to start those full and prompt investigations?

ANSWER

1. Admitted.

2. Admitted.

3. Admitted.

4. Paragraph 4 of the Complaint contains subparts A. through FFF. Columbia's response and Culbertson Response to each of the separate subparagraphs is provided below.

A. Admitted. By way of further clarification, Columbia's proposed rate increase was suspended until December 17, 2022. *See Order Suspending Supplement No. 337*, entered April 14, 2022, at Docket No. R-2022-3031211.

Culbertson Reply: Concur

B. Admitted.

C. Admitted.

D. Denied. Columbia's proposed residential customer charge is $25.47.

Culbertson Reply: "Additionally, Columbia proposes an increase in the monthly residential customer charge from $16.75 to $24.75." https://www.puc.pa.gov/press-release/2022/puc-to-investigate-proposed-rate-increase-by-columbia-gas

E. Denied. The fully projected future test year used for this case ends December 31, 2023.

Culbertson Reply: As provided in https://www.oca.pa.gov/wp-content/uploads/ColumbiaGas-2022BaseRateCase.pdf

F. Admitted.

G. Subparagraph G. is a legal conclusion to which no responsive pleading is required. However, Columbia denies the allegations in Subparagraph G.because it is without sufficient information to form an opinion on what customers and

other stakeholders view as their rights and expectations.

Culbertson Reply: Requirements placed upon Columbia by laws, regulations and internal policy exist and are applicable, these included the requirement that each have effective internal controls – For Columbia/NiSource See the NiSource 10-K as provided on the NiSource - https://investors.nisource.com/financial-filings-and-reports/quarterly-and-annual-materials/default.aspx and for the 10-K https://d18rn0p25nwr6d.cloudfront.net/CIK-0001111711/1b6be0c3-585a-498e-8014-007c964e19c5.pdf "*Our management, including our chief executive officer and chief financial officer, are responsible for establishing and maintaining internal control over financial reporting, as such term is defined under Rule 13a-15(f) or Rule 15d-15(f) promulgated under the Exchange Act. However, management would note that a control system can provide only reasonable, not absolute, assurance that the objectives of the control system are met.* ***Our management has adopted the 2013 framework setforth in the Committee of Sponsoring Organizations of the Treadway Commission report, Internal Control - Integrated Framework"*** part of that framework is compliance with laws and regulations.

For the Commission, the requirement is in Management Directive Management Directive 325.12 https://www.oa.pa.gov/Policies/md/Documents/325_12.pdf

Obeying the law is a society and cultural requirement and we to recognize the law of the land per the US Constitution. *Article VI The Supreme Law Clause 2 The Supremacy Clause*

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, ***shall be the supreme Law of the Land;*** *and the Judges in every State*

shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

In our society there is a presumption people, organizations, governments government segments and will abide by the rule of law. Some of this is embedded into the Pennsylvania and the U.S. Constitutions.

H. Denied. By way of further response, Columbia is without sufficient information to form an opinion as to the knowledge of customers concerning utilities and how the Commission operates.

Culbertson Reply: Really? Does this mean the NiSource Board of Directors have no opinion as to the knowledge of stakeholders concerning their utility companies and how the Commission operates?

I. Subparagraph I. is a conclusion of law to which no responsive pleading is required. Further, Subparagraph I. quotes the federal Natural Gas Act, which is within the jurisdiction of the Federal Energy Regulatory Commission (not the Commission) to administer.

Culbertson Reply: Per the U.S. Constitution, the quoted above, Federal law and regulations flow down to state and municipalities to a large extent. The PA PUC is not independent of the FERC. Why do gas distributions companies use FERC, 18 CFR Part 201 - UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT? https://www.law.cornell.edu/cfr/text/18/part-201

The FERC routinely audits public utilites -- a recent example, FirstEnergy

must refund customers for improper lobbying costs, federal audit finds **https://www.beaconjournal.com/story/business/2022/02/04/federal-audit-tells-firstenergy-refund-ohio-utility-customers-lobbying-costs/6661706001/**

Also, see the audit of National Fuel Gas Supply Corporation (National Fuel). https://www.ferc.gov/sites/default/files/2020-11/National-Fuel-FA19-6-000.pdf

Also consider: *66 Pa. C.S. § 1351. Definitions.* ***"Capitalized cost."*** *Costs permitted to be capitalized pursuant to the* ***[FERC]*** *Uniform System of Accounts and Generally Accepted Accounting Principles.*

15 USC 717: Regulation of natural gas companies (a) Necessity of regulation ***in public interest*** *As disclosed in reports of the Federal Trade Commission made pursuant to S. Res. 83 (Seventieth Congress, first session) and other reports made pursuant to the authority of Congress, it is declared that the business of transporting and selling natural gas for ultimate* ***distribution*** *to the public is affected with a* ***public interest****, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and foreign commerce is necessary in* ***the public interest.***

United States Supreme Court FEDERAL POWER COM'N v. HOPE NATURAL GAS CO.(1944) Decided: January 3, 1944, Justice Douglas wrote *"Of course the statute is not concerned with abstract theories of ratemaking. But its very foundation is the '****public interest****', and the* ***public interest*** *is a texture of multiple strands. It includes more than contemporary investors and contemporary consumers. The needs to be served are not restricted to immediacy, and social as well as economic costs must be counted.*

J. Subparagraph J. is a conclusion of law to which no responsive pleading is required.

Culbertson Reply: The issue and the applicability of the J., Pennsylvania 66Pa.C.S. § 1301. is the pertinent substance in the Complaint. *"Rates to be just and reasonable.*

(a) Regulation.--Every rate made, demanded, or received by any public utility, or by

any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission."

K. Subparagraph K. contains a conclusion of law to which no responsive pleading is required. The remainder of the allegations in Subparagraph K. are denied. Columbia is without sufficient information to form an opinion on what the public can or cannot discern from the words **"just and reasonable**."

Culbertson Reply: The issue and the applicability of the law and behavior is the pertinent substance in the Complaint. The use of the terms "just and reasonable" are used in the Commission Order. ***"Columbia is without sufficient information to form an opinion on what the public can or cannot discern from the words "just and reasonable." ???***

The Columbia's answer is not consistent with the NiSource Code of Business Conduct -- *"our core values that are central to living Our Promise – fairness, honesty, integrity and trust.* *https://www.nisource.com/docs/librariesprovider2/nisource-documents/nisource-policies/nisource-code-of-business.pdf?sfvrsn=85#:~:text=Our%20Code%20of%20Business%20Conduct,choices%20you%20face%20each%20day*.

Columbia/ NiSource must have some idea as to what are just and reasonable rates.

NiSource Press Release May 4, 2022 "*Safety, reliability, **customer affordability** and sustainability **remain top priorities"***

https://apps.cnbc.com/resources/asp/getReportPdf.asp?docKey=169-22889740-400OR5MH58A413O2IEFSII633F&docType=PDF

L. Subparagraph L. contains a legal conclusion to which no responsive pleading is required. Moreover, Columbia specifically denies any characterization of the word "just" as used in the Public Utility Code.

Culbertson Reply: If Columbia does not know the nature and parameters of "just" – then what are they going to show as there burden of proof? 66 Pa. C.S. § 315. "Burden of proof…. the burden of proof to show that the rate involved is **just** and reasonable shall be upon the public utility." It is a situational requirement for Columbia to know the meaning of "just."

M. Subparagraph M. is a legal conclusion to which no responsive pleading is required. However, Columbia notes that the referenced Federal Acquisition Regulations are irrelevant to this base rate proceeding before the Commission, and the Federal Acquisition Regulations do not apply to Columbia because Columbia is not a federal agency.

Culbertson Reply: Columbia's answer is wrong See *2 § 910.350 Applicability of 2 CFR part 200. (a) As stated in 2 CFR 910.122, unless otherwise noted in part 910, the definition of Non-Federal entity found in 2 CFR 200.69 is expanded for* ***DOE*** ***to include for-profit organizations****…*

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 through 200.475 476****, … This applies to For-Profit entities whether they are* recipients or subrecipients.

See PA Management Directive Responsibilities of Comptroller Operations Number: 305.03 Amended. This invokes 2 CFR 200 regarding Grants https://www.oa.pa.gov/Policies/md/Documents/305_3.pdf

"*SCOPE. This directive applies to* ***all*** *departments, offices, boards,* ***commissions,*** *and councils (hereinafter referred to as "agencies") under the Governor's jurisdiction."*

As Columbia knows, Commissions are independent, but they are under the

Governor's responsibility to some extent, particularly on administrative matters -- so who nominates PUC Commissioners?

DOE publishes the FERC 18 CFR Part 201 - UNIFORM SYSTEM OF ACCOUNTS The Commission and Columbia would benefit from recognizing, understanding and obeying the PA Management Directives and how those OMB and GAO documents apply to their operations.

Undergoing the required audits would have helped and improved operations. Sometimes organizations are subject requirements not listed in the agreement, especially in government related arrangements, e.g., the "Christian Doctrine".

N. Denied. Part of Subparagraph N. appears to be a quote from another source. However, the reference is not provided. To the extent subparagraph N. is a quote from the Federal Acquisition Regulations, the reference is irrelevant to this base rate proceeding before the Commission. Columbia specifically deniesthat the rates of other utilities within and outside of Pennsylvania are relevant to determining whether Columbia's rates are just and reasonable.

Culbertson Reply: Denial is a normal response when there is a major negative occurrence – the five stages denial, anger, bargaining, depression and acceptance. The OMB Cost Principles in the FAR and 2 CFR 200 are very similar – When the FERC auditors looked at public utility cost and determined the lobbying cost was unallowable cost what was their source? What is Columbias source that the Cost Principles do not apply to their operations? For lobbying *"2 CFR § 200.450 Lobbying. (a) The cost of certain influencing activities associated with obtaining grants, contracts, or cooperative agreements, or loans is an unallowable cost. Lobbying with respect …"* *"FAR 31.205-22 Lobbying and political activity costs. (a) Costs associated with the following activities are unallowable:"*

O. Denied. Subparagraph O. appears to be a quote from another source. However, the reference is not provided. To the extent Subparagraph O. is a quote from the Federal Acquisition Regulations, the reference is irrelevant to this base rate proceeding before the Commission.

Culbertson Reply: See the previous explanations – the PUC is subject to 2 CFR 200 and Columbia is subject to FAR Part 31.

P. Denied. It is denied that the Federal Acquisition Regulations and referenced federal regulations and Department of Energy requirements apply to Columbia. By way of further response, Columbia cannot speak for the Commission and has no control over how the Commission uses funds.

Culbertson Reply: See prior responses. If Columbia is so sure its unaudited financials are pristine and reliable then Columbia should request an audit from the FERC, similar to the one of FirstEnergy in Ohio. https://www.wkbn.com/wp-content/uploads/sites/48/2022/02/First-Energy-audit.pdf. With that, Culbertson would also caution just because a large Government organization audited the financials and operations does mean the auditors are technically correct – This audit does not mention that the audit was conducted in accordance the GAO Yellow Book, nor does it mention it was in accordance with the OMB Cost Principles. One of the issues that was questioned was the allowability of industry association dues - Under FAR 31 industry association dues are allowable. FAR 31.205-43(a) 31.205-43 Trade, business, technical, and professional activity costs. The following types of costs are

allowable: (a) Memberships in trade, business, technical, and professional organizations.

Columbia's denial is not persuasive.

Q. Subparagraph Q. is a legal conclusion to which no responsive pleading is required. Furthermore, the allegations in this Subparagraph are vague as it is not clear what is meant by "state operations" or what "state's requirements" are being referenced.

Culbertson Reply: Again keep in mind, Culbertson's Formal Complaint was written consistently with *66 Pa. C.S. § 701. Complaints. --The commission, or any person, corporation, or municipal corporation having an interest in the subject matter, or any public utility concerned, may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission.* With this Formal Complaint, Columbia should have started its investigation per PUC regulation *"52 Pa. Code § 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."* Columbia's denials and Answers are not full investigations.

State operations refers to the required internal controls placed upon Pennsylvania per the GAO Green Book and PA Management Directive -- Management Directive 325.12. *"[E]ffective and efficient operations" comes from the* GAO *"Green Book. The commonly used name for the Standards for*

Internal Control in the Federal Government issued by the United States Government Accountability Office. The Green Book provides Management with criteria to design, implement, and operate effective Internal Controls."

https://www.oa.pa.gov/Policies/md/Documents/325_12.pdf

R. Subparagraph R. is a legal conclusion to which no responsive pleading is required.

Culbertson Reply: See the previous response.

S. Denied. It is denied that the Pennsylvania Management Directives and GAO Yellow Book apply to Columbia. Columbia is not a state or federal agency, nor does it receive government funding that makes it subject to Pennsylvania Management Directives. The Pennsylvania Management Directives and GAO Yellow Book are irrelevant to this proceeding. With respect to the allegations against the Commission, Columbia cannot speak for the Commission and has no control over how the Commission conducts it audits. By way of further response, Mr. Culbertson's complaint against the Commission's auditing process is outside the scope of this utility-specific base rate proceeding. Any proceeding involving the Commission's audit process should be dealt with in an industry-wide general proceeding with input from all stakeholders.

Culbertson Reply: The Commission receives Federal grant money Columbia receives federal grant money (LIHEAP) and recently through the Cares Act. With grant money comes 2 CFR 200 and the GAO Yellow Book and Green Book. Internal audit organizations are required for corporations by the Sarbanes Oxley Law. The internal audit must at least mirror external audit. https://www.sarbanes-oxley-

101.com/sarbanes-oxley-compliance.htm. Audits are not irrelevant to this proceeding. 66 Pa. C.S. *§ 308.2. Other bureaus, offices and positions…. to perform the following functions: (8) Conduct financial, management, operational and special audits.* Just because the Commission may not fulfill its audit responsibilities does not mean Columbia/ NiSource is off the hook for having proper internal controls, including internal audits.

See https://www.law.cornell.edu/uscode/text/15/78m -- Securities and Exchange Act of 1934 *(2)Every issuer which has a class of securities registered pursuant to section 78l of this title and every issuer which is required to file reports pursuant to section 78o(d) of this title shall—*

(A)make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer;

(B)devise and (i)transactions are executed in accordance with management's general or specific authorization;

(ii)transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles or ***any other criteria applicable to such statements,*** *[e.g., Cost Principles, FERC UNIFORM SYSTEM OF ACCOUNTS and PA laws and regulations] (II) to maintain accountability for assets; sufficient to provide reasonable assurances that—*

*(4)**No criminal** liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection **except** as provided in paragraph (5) of this subsection.*

(5)No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account

described in paragraph (2).

(7)For the purpose of paragraph (2) of this subsection, the terms "reasonable assurances" and "reasonable detail" mean such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their own affairs.

Claiming that "The Pennsylvania Management Directives and GAOYellow Book are irrelevant to this proceeding." That claim is not only wrong it is reckless – was this Answer cleared by the NiSource Board's Audit Committee? It should have.

T. Denied. It is specifically denied that the costs being presented in this rate caseare not just and reasonable. By way of further response, it is unclear what "costprinciples" are being referenced in this Subparagraph. Moreover, Columbia cannot speak for the Commission or what cost principles it does or does not follow.

Culbertson Reply: "It is specifically denied that the costs being presented in this rate case are not just and reasonable." How does anybody know that what Columbia has presented is reliable, let alone – just and reasonable. Columbia has not shown its rates are just and reasonable. Columbia, as part of their burden proof must show that proof. The GAO Yellow Book requires professional skepticism in audits – participants in this rate case should have no lesser degree of trust.

U. Denied. It is specifically denied that there is no assurance that customers havebeen paying for actual legitimate cost. By way of further response, it is unclear what "standards and principles" are being referred to, and therefore the remainder of

Subparagraph U. is denied.

Culbertson Reply: ***If "[i]t is specifically denied that there is no assurance", where is that assurance or reasonable assurance? Per the Securities Act referenced above "(7) For the purpose of paragraph (2) of this subsection, the terms "reasonable assurances" and "reasonable detail" mean such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their own affairs.***" Most people look at an expensive dining or hotel for some sort of assurance that it is reasonably correct – not looking for reliable audit, as required by the PA Constitution (**https://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/00/00.008..HTM** **ARTICLE VIII TAXATION AND FINANCE § 10. Audit.)** of a proposed $82.2 million revenue increase would be reckless disregard for rate payers' interests. Does Columbia actually believe rate payers and parties of this rate case should just forgo due diligence and forgo reliable audits?

a. Denied. The referenced GAO Yellow Book, Management Directives, Internal Controls for Commonwealth Agencies, and GAO Green Book are irrelevant to Columbia and this base rate proceeding. By way of further response, the text of the Commission's regulations speaks for itself. To the extent Mr. Culbertson's is challenging the legality of the Commission's regulations, this base rate proceeding is not the appropriate place to do so.

Culbertson Reply: Columbia's not understanding the overall framework of Federal, state and corporate governance requirements, puts Columbia's shareholders and their customers at risk of omissions and the effects of

unreasonable and unjust rates and charges. When a government overseer is delinquent in performing required duties -- that does not mean the utility is free to move on as if the overseer has performed their duty and had no findings. The Utility still has responsibilities to shareholders and rate payers to fill the void with concurrence of the overseer – See 66 Pa. C.S. § 516. Audits of certain utilities. (c) Use of independent auditing firms.

b. Denied. It is specifically denied that there is any "lack of due diligence" on Columbia's part. By way of further response, Columbia cannot speak for the Commission and has no control over what audits the Commission does or does not perform. As previously explained, this proceeding is not the appropriate place to challenge the Commission's auditing process.

Culbertson Reply: Where is the independent investigation to that assertion? This rate case cannot separate Columbia's hands from the PUC's hands – each hand washes or contaminate the other. Columbia's and the PUC's past practice are intertwined. Recognizing prior errors and making self-corrections requires courage with the priority of justice over embarrassment. The Commission independent law judge will have to figure what provides customers justice in this rate case and what is in the public interest. The ALJ would also be derelict of his duties if he ignores weaknesses of the PUC as part of the duties to be diligent and impartial. Part of the ALJ's responsibilities is not to be an advocate of the Commission or turn a blind eye on weaknesses of the Commission. The role of a judge is not to ignore the faults of the state. It is not disrespectful to criticize the state, it is part of

justice

c. Denied. Paragraph X. is a legal conclusion to which no responsive pleading is required. However, Columbia denies that it has not met its burden of proof. Columbia also denies that the Company does not undergo financial audits.

Culbertson Reply: Again, this is a Formal Complaint subject to 66 Pa. C.S. § 701. Complaints. Please show the proof of the reasonableness of rates.

d. Denied. It is denied that there is no basis to approve the proposed rate increase. It is also denied that approving Columbia's proposed rate increase would be reckless. Columbia has provided hundreds of pages of testimony and exhibits supporting the proposed rate increase and is in the process of responding to hundreds of discovery requests that demonstrate why the Company's requested rate increase is just and reasonable.

Culbertson Reply: Yes, the Commission has reviewed those hundreds of pages and concluded, from the Commission's 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;*** *https://www.puc.pa.gov/pcdocs/1740597.pdf*

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… 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.

What is happening here is action but no progress in meeting the requirements of the Commission's Order. Culbertson, nor any of the other Complaints are independent investigators, nor auditors. What has been presented is from an advocate's view and is not proof and should be viewed as company advertisement and may not be materially relevant nor reliable in this rate case. What the participants are doing now is not an investigation as the public ordinarily understands the term. Undefined terms are constrained by their ordinary definition.

e. Subparagraph Z. is a legal conclusion to which no responsive pleading is required. Columbia cannot speak for the Commissioners or the Administrative Law Judges in terms of their duties.

Culbertson Reply: That is a result of Culbertson's observations, assessment and suggestion that would be helpful to the Commission, Columbia and rate payers that could be used in the ALJ's Recommendation to the Commission, of which has influence over legislation.

f. Subparagraph AA. is a legal conclusion to which no responsive pleading is required.

Culbertson Reply: That is a result of Culbertson's observations, assessment and suggestion that would be helpful to the Commission, Columbia and rate

payers that could be used in the ALJ's Recommendation to the Commission, of which has influence over legislation.

BB. Denied. Columbia cannot speak for the Commission and how it conducts audits. As previously explained, to the extent Mr. Culbertson seeks to challenge the Commission's audit process, this rate case is not the appropriate place to do so.

Culbertson Reply: Columbia is responsible for monitoring of their intern controls with or without Commission's audits. Audits performed Certified Public Accounts provide a vital element of assurance that Columbia's rates are just, reasonable and lawful. Columbia cannot have a weakness of the Commission justify those weakness of Columbia.

It is Columbia's responsibility to have effectives internal controls including appropriate **monitoring** and without audits, there is no independent and reliable assurance that can be provided to the Commission, rate payer and shareholders. The process in Ohio for reviewing rate cases appears to be superior to that of Pennsylvania. The Commission in their order indicated they have concerns with Columbia's filing and existing rates – what were those concerns? The public and the participants need to know. The staff of PUC Ohio made their findings public. The PA PUC certainly has better access to Columbia's operations and financials than complaints in this rate case. https://dis.puc.state.oh.us/ViewImage.aspx?CMID=A1001001A22D06B50032I01509

g. Denied. The citied provision of the Pennsylvania Constitution applies to entities that are funded or financially aided by the Commonwealth. Columbia does not receive funding from the Commonwealth. Therefore, the allegations in this Subparagraph are irrelevant to Columbia's base rate case. In further response, Columbia is subject to periodic financial and operational audits by the Commission's Bureau of Audits.

Culbertson Reply: Part of the financial affairs of the PUC are audits before rate cases are dispositioned. Secondly, Columbia does not receive revenue or funds outside of the purview of the Commisssion. When in doubt what is in the public interest? It is not in the public interest to provide Columbia Gas of Pennsylvania its huge revenue increases without audits and any assurance that Columbia's financials are free of waste, fraud, abuse and mismanagement as well as being just, reasonable and in the public interest. The Commission performs management audits of Columbia about every eight years – 2 CFR 200 requires annual audits. The Commission may not have performed a financial audit in many years and may not have the expertise to do it now.

DD. Denied. Columbia cannot speak for the Commission and how it conducts utility assessments. To the extent Mr. Culbertson is challenging the Commission's process for assessments, this base rate proceeding is not the appropriate place to do so.

Culbertson Reply: The Commission's admission that it receives a commission or benefits by raising utility rates and with an assessment of .13 percent of

revenue has the appearance of impropriety. That should be troubling to ratepayers and to Columbia it appears some of Columbia's revenue may be ill gotten gain. Make no mistake, this type of funding mechanism smacks of public corruption, regardless how this mechanism started or intentions.

EE. Denied. Subparagraph EE. is vague as it is not clear what budget is being referenced. Subparagraph EE. is therefore denied.

Culbertson Reply: This identifies the amount of its funding the PUC receives based upon its .013 percent commission. Or total public utility revenue in Pennsylvania of about $26 billion – it would be reasonable for that amount of money coming from customers, to be subject to appropriate audits as a process to protect the public and customers.

FF. Denied. Subparagraph FF. is vague and provides no support for the referenced figures. Subparagraph FF. is therefore denied. Further, to the extent Mr. Culbertson is challenging the Commission's budget and its utility oversight process, this rate case is not the proceeding to do so.

Culbertson Reply: See the previous response.

GG. Denied. The U.S. Justice Department's Criminal Division is not relevant to this case. This is a base rate case before the Commission, not a federal criminal case.

Culbertson Reply: The issue is not U.S. Justice Department's Criminal Division involvement, but the framework tool used to efficiently identify

weaknesses and deficiencies, their root causes and needed corrections. That framework and process should be used to evaluate the process of rate cases.

HH. Denied. Subparagraph HH. is vague and is therefore denied. To the extent this refers to the prior paragraph, the response to Paragraph GG. is incorporated herein by reference.

Culbertson Reply: GG provides a framework in identifying problems in programs such as compliance programs, rate case processing, investigations, audits, public input hearings …

II. Denied. The allegations in Subparagraph II. relate to the Commission's reports. Columbia is without sufficient information to determine how the Commission issues its reports, and the allegations in this Subparagraph are therefore denied.

Culbertson Reply: The Commission's Rate Comparison Report as required by law 66 Pa. C.S. §308. Section 308.1(b) https://www.puc.pa.gov/media/1893/rate_comparison_report_2022.pdf is a report or score card as to who is provided what by the PUC regarding rates. The report is of interest to utilities as well as to their customers and prospective customers. The report is helpful to customers as it shows reasonableness of rates in comparison to other utilities. The report is also helpful as a benchmark exercise to those who are not charging as much as other peer utilities and provides what is possible to achieve in rates. The tone or results the top influences those not at the top. It also shows what is possible for the PUC will approve – it sets precedent.

JJ. Paragraph JJ. is a legal argument to which no responsive pleading isrequired. However, **Columbia denies that the rate comparison reports are relevant evidence to this case.**

> **Culbertson Reply:** The PUC's Rate Comparison Report was meant, by law, to be provided to Pennsylvania decision makers regarding public utilities. It is the best report that the PUC publishes and should be submitted as evidence in every rate case as an indication of a utility's rates and to what extent they are just and reasonable. It is unfortunate that the PUC did not publish this report along with a corresponding press release. This rate comparison report has the upmost relevance in this rate case. It provides the facts as the PUC knows them.

KK. Denied. It is unclear what is meant by "most favored." Therefore, this allegation is denied. It is also denied that the rates of other utilities are relevantto this case.

> **Culbertson Reply:** The facts of the rate comparison report show otherwise. Columbia gets the most from the PUC and from customers than others in their peer group. The Cost Principles are applicable to PA PUC. 2 CFR § 200.404 - Reasonable costs… "consideration must be given to: (c) Market prices for comparable goods or services for the geographic area." https://www.law.cornell.edu/cfr/text/2/200.404

LL. Denied. It is denied that the rates of other utilities are relevant to this case.

> **Culbertson Reply:** Customers would disagree, under a monopolistic regulated environment, the public would expect that companies offering the same service, doing the same thing, in the same relative area should receive reasonably the same

proportionate revenue. The Pennsylvania legislature and the Commission do not believe comparative rates are irrelevant – that is why the Rate Comparison Report is required by law. 66 Pa. C.S. §308. Section 308.1(b).

See previous response that reflects the requirements of applicable Federal regulations. What is determined to be just and reasonable is always relative to the situation. The data show there is something unusual about Columbia relative to other peer gas distribution companies in Pennsylvania. Independent audits and investigations must be conducted to determine what are the drivers of the disparities. Reasonable people and regulators do not turn a blind eye to the facts.

MM. Denied. It is denied that Columbia's rates are not just and reasonable and not in the public interest. By way of further response, Columbia is without sufficient information to form an opinion as to the utility preferences of customers, and therefore this allegation is denied.

Culbertson Reply: The PUC's Rate Comparison Report is material information for customers. *"Supreme Court of the United States has held that a fact is material if there is "a substantial likelihood that the . . . fact would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available."* *https://pcaobus.org/oversight/standards/auditing-standards/details/AS2105*

As an investor with residential properties, Culbertson would prefer Peoples over Columbia Gas for multiple reasons including the cost of distribution services. Culbertson is a reasonable investor and a reasonable customer.

.

NN. Denied. It is denied that the rates of other utilities are relevant to this case.

Culbertson Reply: See the Reply to KK.

OO. Denied. It is denied that Columbia's rates have not been just and reasonable. Moreover, it is unclear what is being referred to by "this report" and "Columbia's initial submissions," and therefore these allegations are denied.

Culbertson Reply: This report means the PUC's Rate Comparison Report and Columbia's initial submissions to the rate case.

PP. Denied. It is unclear what is meant by "the same strategy as Columbia," and therefore this allegation is denied. Moreover, Columbia cannot speak for other utilities and is without sufficient information to comment on the "strategy" of other utilities.

Culbertson Reply: It stands to reason as other peer gas distribution companies analyze the PUC's Rate Comparison Report or score card and find themselves having significantly lower revenues, proportionately than Columbia, they will be tempted to emulate Columbia in achieving high rates. The pressure would also be on the PUC to provide greater increase to those other utilities in fairness.

QQ. Subparagraph QQ. is a legal conclusion to which no responsive pleading is required. However, Columbia denies that the costs for its pipe replacements are "not necessary costs" or that these costs are "unallowable cost for recovery purposes."

Culbertson Reply: QQ. pertained to Columbia's **accelerated** pipeline replacement program, not their replacement program. Accelerated means faster than they would have been replaced otherwise. Meaning pipes with remaining useful life were replaced causing unallowable or unreasonable cost to be capitalized.

RR. Denied. The Uniform System of Accounts speaks for itself, and any characterization thereof is denied.

Culbertson Comment: The issue, did Columbia have an accelerated pipeline replacement program? If so, it is reasonable to believe that part of those costs may be unallowable and charged to FERC account 426.5.

SS. Denied. The Generally Accepted Accounting Principles speaks for itself, and any characterization thereof is denied.

Culbertson Reply: Generally Accepted Accounting Principles do not speak for themselves there is a certain amount of latitude. And the FERC accounting is somewhat dated in comparison to other accounting standards. Generally in government contracting, contractors provide a CAS Disclosure Statement that provides the organization's accounting practices. This is probably a weakness in FERC/ public utility accounting.

TT. Denied. To the extent the allegations in Subparagraph TT. imply that Columbia is no longer engaging in accelerated pipe replacement, as that term is understood

in the context of long-term infrastructure improvement, this allegation is specifically denied.

Culbertson Reply: An audit would show what are the facts, if Columbia is still engaged in an accelerate pipeline replacement program, if and to what extent Columbia has written off Net Book Values and have there been change is useful lives of pipes over time. Changing words does not mean there has been a change in practice. The issue, has Columbia succumbed to the Averch–Johnson effect?

https://en.wikipedia.org/wiki/Averch%E2%80%93Johnson_effect

UU. Denied. The proposed rate increases of other utilities, including utilities in other jurisdictions, are irrelevant to this case. By way of further response, there are many reasons why other utilities would have different rates than Columbia, including differences in rate base between the utilities, number of customers served, and geographic location, as well as many other factors.

Culbertson Reply: The problem that may impact Columbia Gas of Pennsylvania and Columbia Gas of Ohio was in the PUCO audit the auditors questioned Corporate Headquarter Cost with cloud computing and Software as a service (SAAS). These are normally period cost – not capital expenditures. If one in the corporate family has this problem, others probably do as well. So how will the proper cost of headquarters be determined here in Pennsylvania if no one will be looking? Has CPA looked at questioned cost in Ohio? Capitalizing period cost would be wrong in some cases criminal, as with Bernie Ebbers of MCI.

VV. Denied. The rate case process is Ohio is irrelevant to this case before the Commission.

Culbertson Reply: Note true – wrongful NiSource accounting practices in Ohio are probably wrongful accounting practice in Pennsylvania. Public Utility Commissioners can learn from one another. There is no legal barrier for PA PUC to follow the same process as PUCO.

WW. Denied. It is unclear what "staff's audit" is being referred to in this Subparagraph. To the extent it is referring to proceedings in Ohio identified in Paragraphs UU and VV of the Complaint, such proceedings are irrelevant to this case. By way of further response, the Federal Yellow Book audit standards are irrelevant to this rate case.

Culbertson Reply: If Columbia read the Ohio Dispatch's article and the PUCO's staff report, CPA should have learned some useful information that may help CPA. In management of operations, situational awareness can be the difference between success and failure -- and enlightenment and ignorance.

X. Denied. It is unclear what is being referred to by "headquarters costs," and therefore this Subparagraph is denied.

Culbertson Reply: When a parent corporation has several subsidiaries, and where there are service centers that support the total corporation, those service center cost must be allocated down to the subsidiaries. So the total cost of operations is reflected in charges to customers or otherwise. Take for example, the

NiSource Legal Department – that is a corporate service center. Cost is first charge to Corporate then those cost are allocated down to benefiting subsidiaries. At least that is how is works in most major corporations involved in Government contracts or public utilities.

YY. Denied. Columbia is without sufficient information to speak for the Commission or the specific capabilities of its individual staff members. Moreover, the specific expertise of Commission staff is irrelevant to this base rate proceeding.

Culbertson Reply: Those being audited and those auditing eventually develop a constructive relationship that fosters continuous process improvements. Columbia is deserving of competent external auditors per the GAO Yellow Book. Clean audit reports are an asset of those being audited. Audit reports are not irrelevant to rate cases, if done correctly they can provide the Commission, shareholders, customers and other stakeholders some assurance of effective organizational controls and just and reasonable rates.

ZZ. Denied. Subparagraph ZZ. contains a legal conclusion to which no responsive pleading is required. However, Columbia specifically denies that black box settlements are illegal.

Culbertson Reply: Black box settlements are illegal in Pennsylvania

AAA. Denied. Subparagraph AAA. contains a legal conclusion to which no responsive pleading is required. However, Columbia specifically denies that

black box settlements are illegal.

Culbertson Reply: Rates must be just and reasonable – a black box settlement is illegal because the reasons are not transparent to those benefiting or those harmed – reason requires transparency. In a rate case the public utility has the burden proof to **show** that rates and just and reasonable – the reasons cannot be shown if they are in a black box. They are not reasonable.

Lastly, *"66 Pa. C.S. § 335. Initial decisions and release of documents. (d) whenever 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 … 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,"*** In a black box settlements, documents that were relied upon are not released to the public because they are in the black box. Black box settlements promote secrecy not transparency. Customers are entitled to know what the determining factors were in leading to a settlement decision. Multiple wrongs do not make the law disappear or make the practice right. An illegal contract is not enforceable. The public should trust black box settlements.

BBB. Denied. Subparagraph BBB. contains a legal conclusion to which no responsive pleading is required. However, Columbia specifically denies that customers are paying unlawful, unjust and unreasonable rates and charges. Columbia also specifically denies that unallowable costs are "baked into the rate base."

Culbertson Reply: Blackbox settlement(s) are now baked into Columbia's rates,

which makes Columbia's rate less auditable and less accountable. Words like *"black box" settlements facilitate agreements, as parties are not required to identify a specific return on equity or* ***identify specific*** *revenues and/or* ***expenses that are*** *allowed or* ***disallowed.*** Shortscuts to justice may not lead to justice**. The Securities and Exchange Act of 1934 prohibits the circumvention of internal controls See https://www.law.cornell.edu/uscode/text/15/78m**

-- Securities and Exchange Act of 1934 (2) (ii)transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, [e.g., Cost Principles, FERC UNIFORM SYSTEM OF ACCOUNTS and PA laws and regulations] (5)No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2). Making known unallowables as if they were allowable is circumventing internal controls. No one knows who was harmed, benefited or how much. Black box settlement can hide criminal activity. **Not correcting a known error becomes fraud.**

https://pcaobus.org/oversight/standards/auditing-standards/details/AS2401

CCC. Denied. Subparagraph CCC. is a legal conclusion to which no responsive pleading is required. However, Columbia denies that black box settlements do not comply with laws and regulations.

Culbertson Reply: See the previous comment.

DDD. Denied. It is specifically denied that rate cases are used to shield the utility from appropriate investigations. To the extent that Subparagraph DDD. alleges improper behavior on the part of Columbia's employees, Columbia specifically denies this allegation. In further response, gas safety is of critical importance to Columbia, and service may be terminated in the event of danger to the public.

Culbertson Reply: When the Commission becomes aware of wrongful conduct of a public utility, they should not wait for a formal informal complaint but act upon their own knowledge as they are the supervisor of the utility. Now, known problems sometimes takes years to resolve through the complaint process. The Commission has their own police authority and that should be used to solve problems expeditiously.

Employees of public utilities have boundaries that they must recognize, particularly on private property beyond their easement in servicing their own property or infringe upon the duties and authority of code officials. The boundaries and of authority to come on to private property for public utility employees is the same as PUC officials.

EEE. Subparagraph EEE. is a legal conclusion to which no responsive pleading is required. However, to the extent that Subparagraph EEE. alleges that Columbia's legal department is "conflicted" from participating in complaints against the utility, this allegation is specifically denied. It is further denied that there should be an "immediate internal investigation by [the] NiSource Ethics Department."

Culbertson Reply: Again this is a complaint, complaints are required to be processed per Pennsylvania law and the PA PUC regulation *"52 Pa. Code § 59.13. Complaints. (a) Investigations. Each public utility shall make a full and prompt investigation of complaints."* The Commission's regulations must be enforced, § 501. General powers. (c) and public utility employees must comply with title 66 Pa. C.S. **§ 501. "General powers. (a)** … *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, … (c) Compliance.--Every public utility, its officers, agents, and employees … **shall observe, obey, and comply** with such regulations or orders, and the terms and conditions thereof."*

This document, which is intended to answer the Culbertson Formal Complaint in this rate case is inappropriate and does not comply with "52 Pa. Code § 59.13. Complaints. (a) Investigations. Complaints must be investigated and Columbia's outside council is not an investigator – they are an advocate of Columbia. A complaint investigation with integrity generally does not result with no investigation and denial of all the elements of the complaint by the utility's external attorney. Part of the intended process for an internal investigation is as a result, the utility will recognize wrongs appropriately and make the necessary corrections. The major elements of the Culbertson complaint are the same as the Commission – why are Columbia's rate so much higher than others in their peer group? That is not for a complainant to find but Columbia's investigation to find out.

FFF. Denied. It is specifically denied that there has been a lack of independent audits of Columbia. It is specifically denied that Columbia's proposals in its base rate proceedings have not been investigated. It is specifically denied that Columbia's financial reports are unreliable. Further, Columbia is without sufficient information to speak for the positions of other participants in this rate case.

Culbertson Reply: The applicable definition of an audit – GAO Yellow Book "*Audit: Either a financial audit or performance audit conducted in accordance with GAGAS. (paragraph 1.27b)"* The exercise that the Commission uses that they may call audits are not audits. The Commission receives Government grants along with those grants is 2 CFR 200 which requires the use of the GAO Yellow Book.

There is an annual audit conducted by Deloitte identified in the NiSource 10-K is not an audit specifically looking at rates and charges in rate cases. There is no indication that an audit was ever conducted regarding allowable cost. Columbia denies that the OMB Cost Principles either in 2 CFR 200 or FAR Part 31 apply – then what standard does apply? What standard is used for what is just and reasonable?

V. Paragraph 5 contains a request for relief, which is broken out into Subparagraphs A. through FFF. No responsive pleading is required to a request for relief. However, Columbia denies that Mr. Culbertson is entitled to the relief requested in Subparagraphs A. through FFF. Further, to the extent that Mr. Culbertson's request for relief contains requests for the Commission to change its practices and procedures, such requests are inappropriate for this utility-specific base

rate proceeding. Any request for changes in the Commission's practices and procedures, or changes in laws, should be dealt with in a general proceeding where all interested stakeholders can participate.

Culbertson Reply: Culbertson and others are entitled to *due process* (14th Amendment of the US Constitution), and the *due course of law* per the Pennsylvania Constitution (Article I § 11.) When these rights are infringed upon or breached, they must be dealt with at the time, not upon appeal. When due process is defined in the Pennsylvania law in rate cases – then that is the process that must be followed. Article I § 11 continues [people] "**shall** have remedy by due course of law, and right and justice administered without sale, denial or **delay**."

Culbertson stands the substance of his requests for relief.

NEW MATTER

6. For the reasons explained in this "New Matter" to Mr. Culbertson's Complaint, Mr.

Culbertson lacks the required standing to participate in this base rate case, and therefore, his Complaint should not be consolidated with this base rate case, and he should not be granted active party status

Culbertson Reply: Here we go again – Columbia trying to silence the voice of Culbertson, an interested party as they have done before. This NEW MATTER is a deliberate attempt to place a chilling effect on public participation with this and other Pennsylvania Public Utility rate cases. Pennsylvania Law determines who can submit a complaint 66 Pa. C.S. § 701. *" Complaints. The commission, or any person, corporation, or municipal corporation having an interest in the subject matter… "*

In docket R-2020-3018835 PA PUC Administrative Law Judge Katrina L. Dunderdale Administrative Law Judge clearly addressed Culbertson's participation in a rate case before in R-2020-3018835 THIRD INTERIM ORDER DENYING OBJECTIONS OF COLUMBIA GAS OF PENNSYLVANIA INC TO PORTIONS OF PUBLIC INPUT TESTIMONY OF RICHARD C CULBERTSON.DOCX https://www.puc.pa.gov/pcdocs/1673258.docx

"To grant Columbia Gas' request – to limit the opportunity for an interested member of the public to tell the Commission what the witness thinks about a $100 million base rate increase – would be to expose members of the public to intense cross examination and potentially public ridicule by a public utility. The end result would be the opposite of the Commission's stated intention for why public input hearings are conducted."

"The primary purpose of all public input hearings is to secure the testimony of what ratepayers and interested parties, i.e., the public, think."

(The same goes for one who becomes a complainant.)

Conclusion

OCA and CAAP correctly noted Columbia Gas' behavior at the public input hearing and in the

filing of a long list of specific objections to testimony provided by a member of the public will create, whether by design or unintentionally, and has created, a ***chilling effect*** *on participation by other witnesses at future public input hearings.*

THEREFORE, IT IS ORDERED: 1. That, pursuant to 52 Pa.Code § 5.103, § 5.412(f) and § 5.402, the Objections of Columbia Gas of Pennsylvania, Inc. to the Written Statement and Exhibits of Richard C. Culbertson are denied.

Has not Columbia not learned from the previous attempt of silence and do away with Culbertson's voice?

This matter should be settled now and the Administrative Law Judges rule in favor of keeping Culbertson with his current status as a complainant. There is no need to provide Columbia another tool to avoid due process in this rate case. The Supreme Court's building in Washington – has engraved "EQUAL- JUSTICE- UNDER- LAW" that is the promise to the people. Culbertson does not want separate justice that may not be calculated to achieve justice – but equal justice as others in this rate case.

Culbertson has per the *CONSTITUTION of the COMMONWEALTH OF PENNSYLVANIA, Article I WE DECLARE THAT-- § 1. Inherent rights of mankind. All men are born equally free and independent, and have certain inherent and* ***indefeasible rights,*** *among which are those of* ***enjoying and defending*** *life and liberty, of* ***acquiring, possessing and protecting property*** *…*

That indefeasible right to protect private property is not limited to only when Culbertson is a customer of Columbia.

But he is now again as of May13, 2022 1:00 PM a Customer Reference Number 400225831.

There is no limit as to when Culbertson protect can protect his property nor a duration of which his property is protected. Property can be protected for affordability of utilities services before, during or after service. Protection can be in many forms – direct or indirect. Protecting

physically or intangibility, protecting the value, productivity, safety, environment or hostile actions or threats of others. (ISO 55000 Asset Management standards https://www.iso.org/obp/ui/#iso:std:iso:55000:ed-1:v2:en)

7. There are three requirements for a party to have standing: (1) the party must have asubstantial interest in the subject matter of the litigation; (2) the interest must be direct; and (3) theinterest must be immediate and not a remote consequence. *See George v. Pa. PUC,* 735 A.2d 1282, 1286 (Pa. Cmwlth. Ct. 1999) (state representative lacks standing to challenge Commission order on behalf of all ratepayers) *citing Ken R. ex rel. C.R. v. Arthur Z.,* 682 A.2d 1267 (1996). The Pennsylvania Commonwealth Court elaborated on each of the three requirements for standingas follows:

> A 'substantial' interest is an interest in the outcome of the litigation which surpasses the common interest of all citizens in procuring obedience to the law. A 'direct' interest requires a showing that the matter complained of caused harm to the party's interest. An 'immediate' interest involves the nature of the causal connection between the action complained of and the injury to the party challenging it and is shown where the interest the party seeks to protect is within the zone of interests sought to be protected by the statute or the constitutional guarantee in question. (citations omitted) Both the immediacy and directness requirements primarily depend upon the causal relationship between the claimed injury and the action in question. (citation omitted)

George v. Pa. PUC, 735 A.2d 1282, 1286 (Pa. Cmwlth. Ct. 1999)

Culbertson Reply: Columbia Gas nor their external attorney have no idea of Culbertson's affairs and if he has standing in this or other venues. **Why is Culbertson being challenged as to his standard when other Complaints are not?** The Commission does not have a standing test for complaints that have shown interest in a rate case. The Commissions Complaint Form does not have a standing test. Culbertson's Docket in the rate case is C-2022-3032203 and he has all the privileges of any other complainant in this rate case.

8. As explained in the following paragraphs, Mr. Culbertson does not meet any of the required elements of standing to participate in this case.

Culbertson Reply: This is a false and reckless assertion. Culbertson's private affairs are his private affairs. He should not have to prove he has standing to Columbia or the PUC. But a taste…

Culbertson has rental homes that are serviced by Columbia. In the past, Columbia has violated my private property rights. When a property becomes vacant, he becomes a paying customer. Columbia's past behavior has harmed and interfered with his small, veteran owned business.

- With potential lessees' discussion frequently occur concerning utility cost. Now that he knows of the significant disparity in distributions cost between Columbia and Peoples distribution cost, he has a good faith duty to disclose his knowledge regarding rates as provided by the Commission's Rate Comparison report.
- **Culbertson is an investor in NiSource** and has been for several years. He does not like the behavior of his company and how they treat the public. Being a Complaint in rate cases can have influence Columbia/NiSource behavior.
- He has Environmental, Social and Governance (ESG) interest – What Are Environmental, Social, and Governance (ESG)

Criteria? *Environmental, social, and governance (ESG) criteria are a set of standards for a company's operations that socially conscious investors use to screen potential investments. Environmental criteria consider how a company performs as a steward of nature. Social criteria examine how it manages relationships with employees, suppliers, customers, and the communities where it operates. Governance deals with a company's leadership, executive pay, audits, internal controls, and shareholder rights.*

https://www.investopedia.com/terms/e/environmental-social-and-governance-esg-criteria.asp

He has interest and personal investment as a standards setter. One who leads, writes, vets and promulgates consensus standards. For example, NiSource has adopted American National Standards

Institute (ANSI) /American Petroleum (API) 1173 Pipeline Safety Management Systems. A primary reference is this standard is ISO 55000 Asset Management. Culbertson is a leader and represents ANSI at international meeting for the updates of ISO 55000 Asset Management. A reference in ISO 55000 Asset Management is ASTM E2279 Standard Practice for Establishing the Guiding Principles of Property Asset Management of which he has been the primary author and technical leader since 2002.

9. First, Mr. Culbertson does not have a substantial interest in the outcome ofColumbia's base rate proceeding because Mr. Culbertson is not a customer of Columbia. Mr. Culbertson does not receive natural gas distribution service from Columbia. Columbia does not bill Mr. Culbertson, and Mr. Culbertson does not pay Columbia's rates. Accordingly, Mr. Culbertson will not be affected by Columbia's proposed rate increase because he does not pay for service from Columbia. Mr. Culbertson's interest in this base rate proceeding as a non-customer is not substantial because he has no discernable interest other than the general concern that the rate case process complies with the law. This does not rise to the level of substantial interest. See George v. Pa. PUC, 735 A.2d 1282, 1286.

Culbertson Reply: Again, Columbia has no idea of the extent of his private affairs and the extent of his interest and should not be imagining them. Columbia and their attorneys should stay out of Culbertson's affairs. Culbertson's property at 1608 McFarland Road, Dormont, is now being vacated **and he is now a customer again as of May13, 2022 1:00 PM! Customer Reference Number 400225831.**

10. Second, Mr. Culbertson does not have a direct interest in this case. In order to havea direct interest, the matter complained of must cause harm to the party's interest. *See George v. Pa.*

PUC, 735 A.2d 1282, 1286. In his Complaint, Mr. Culbertson challenges the rates proposed in Columbia's base rate filing and alleges that Columbia's rates are unjust and unreasonable. *See* Culbertson Complaint, *passim*. However, approval of the rate increase would not cause injury to Culbertson because as a non-ratepayer, he will be completely unaffected by changes in Columbia'srates. Thus, there is no potential for the outcome of the base rate proceeding to cause direct harmto Mr. Culbertson's interests.

Culbertson Reply: Columbia's assertion is false, speculative and reckless. Affordability of housing and living cost impact his business. Excessive utility cost puts the collection of rent at risk and when he is competing with homes serviced by Peoples, with lesser utility operating cost, his property is at a disadvantage and to be competitive he may have to lower the lease revenue. High operating cost of homes can result in lower home values.

11. Third, Mr. Culbertson does not have an immediate interest in this case. As a non-ratepayer, the outcome of this base rate proceeding will not have an immediate affect on Mr. Culbertson. Columbia understands that, although Mr. Culbertson is not a customer of Columbia, Mr. Culbertson owns property within Columbia's service territory. However, any potential interest conferred upon Mr. Culbertson by the fact that he owns property in Columbia's service territory is too remote to establish standing. If all that were required to demonstrate standing is the potentialto become a ratepayer of the utility at some point in the future, nearly anyone would have standingto participate in Columbia's rate case (and every other utility's rate case) because anyone could claim that they may become a utility customer in the future. Moreover, "[a]n 'immediate' interestis shown where the interest the party seeks to protect is within the zone of interests sought to be protected by the statute or the constitutional guarantee in question." *See George v. Pa. PUC*, 735A.2d 1282, 1286. Section 1308 of the Public Utility Code is designed to protect a utility's customers from paying unjust or unreasonable rates. 66 Pa. C.S. § 1308. As a non-ratepayer, Mr. Culbertson does not have a protectable interest under Section 1308 for purposes of the rates proposed in this base rate proceeding.

Culbertson Reply: Columbia's assertion is false, speculative and reckless.

12. The Commission has previously held that owning property within a utility's service territory without being a customer of the utility is insufficient to establish standing. *See Applications of Pennsylvania-American Water Co.*, 1995 Pa. PUC LEXIS 197, *20-22, Docket Nos. A-212285F019, *et al.* (Order entered Oct. 26, 1995) ("*Pennsylvania-American Water Co.*"). In *Pennsylvania-American Water Co.,* the utility filed applications seeking Commission approval to acquire three small water systems. *Id.* at *2. In an effort to gain standing, certain protestants purported to purchase property in the utility's service area, although the protestants were not customers of the utility or the smaller companies that were being acquired. *Id.* at *16-20. In the Initial Decision, the presiding officer dismissed the protestants' case for lack of standing because the protestants were not customers of the utility. The Commission affirmed the Initial Decision on this point, explaining:

> The [Protestants], in our view, lack standing because they have failed to demonstrate an interest which is direct, substantial, immediate, and not a remote consequence of the action. (citations omitted) In order to have standing, a party must have a direct interest in the subject matter of the particular litigation, and the party's interest must be immediate and pecuniary, and not a remote consequence of the judgment. The interest must be substantial. (citation omitted)
>
> We note that the [Protestants] failed to perfect their ownership of the properties in question. **However, we hasten to point out that mere ownership of land within a certificated service territory of a utility is not the same as being a customer of that utility.** We note further that the [Protestants] never made application for water service from the Transferors, have never been billed for water service, and have never paid for water service. Accordingly, we conclude that the [Protestants] lack standing. . .

Pennsylvania-American Water Co. at *20-21 (emphasis added).

Culbertson Reply: Columbia's citations do not supersede his indefeasible rights under the Pennsylvania Constitution Article I Section 1.

13. In *Coggins v. PPL Electric Utilities Corp*., 2013 Pa. PUC LEXIS 267, *13-14, Docket No. C-2012-2312785 (Order entered Apr. 22, 2013), a complainant brought a complaint against the utility, arguing that the campground he was living in at the time was overcharging him

for utility service. The Commission dismissed his Complaint for lack of standing, explaining:

> In the instant case, there is no genuine issue as to a material fact that Complainant is not a customer of PPL. The Commission has held that, in general, a complainant must be respondent's customer to have standing to file a complaint about its utility service. See, *Re: Pennsylvania American Water Company*, 85 Pa. P.U.C. 548 (1995); and *Pa. P.U.C. v. Marietta Gravity Water Company*, 87 Pa. P.U.C. 864 (1997). **In other words, a complainant which is not a customer of a utility generally does not have the requisite substantial, direct, and immediate interest necessary to confer standing to bring the complaint about the service of that utility.**

Coggins v. PPL Electric Utilities Corp., 2013 Pa. PUC LEXIS 267, *13-14 (emphasis added).

Culbertson Reply: Columbia's citations do not supersede his indefeasible rights under the Pennsylvania Constitution Article I Section 1.

14. Similar to the protestants in *Pennsylvania-American Water Co.* and the complainant in *Coggins v. PPL Electric Utilities Corp.*, Mr. Culbertson has failed to demonstrate the requisite standing to participate in this base rate proceeding because he is not a customer of Columbia. Therefore, Mr. Culbertson's Complaint should be dismissed.

Culbertson Reply: Columbia's assertion "Mr. Culbertson has failed to demonstratethe requisite standing …" Non-sense! Culbertson is a duly admitted complainant in this rate case. Columbia and their attorney's motivations are not in the public interest, they are in the interest of Columbia and their continued pursuit of unjust, unreasonable and unlawful rates. This rate case is all about fulfilling the Orders of the Commission laid out in the Commission's Order. https://www.puc.pa.gov/pcdocs/1740597.pdf based upon their belief: *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*;"

Furthermore it is not in the public interest to place a chilling effect on future Pro Se

complaints. The role of the public comment and participation is deeply embedded in public discourse in America, at least since The Administrative Procedures Act of 1946. This Act requires the request of public comments on various administrative actions of government agencies. It is an established fact the diverse groups make better decisions the homogeneous groups. https://www.smartcompany.com.au/people-human-resources/diversity-better-decision-making/

His participation is needed to meet and fulfill the orders of the Commission of which is to truly find out if ***proposed changes in rates, rules, and regulations*** **are** ***unlawful, unjust, unreasonable, and contrary to the public interest***. There is a process to do that – that must include independent audits and investigations.

WHEREFORE, Richard C. Culbertson. respectfully requests that the Columbia Gas efforts to exclude Richard C. Culbertson in this base rate proceeding at Docket No. R-2022- 3031211 be vehement rejected.

Respectfully submitted,

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

Date: May 16, 2022