

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

Re: Comments Proposed Settlement Docket No. M-2023-3038060

I thank the Commission for asking for public comments on this matter. Hopefully, the Commission will improve its oversight of public utilities and the utility will improve its internal controls to prevent and correct similar occurrences.

The Commission should reject this proposed settlement.

1. The Commission has supervisory responsibility over public utilities and needs some assurance of the internal control status of this utility. Unfortunately the Commission rarely performs management audits and never performs financial audits as shown in the last years accomplishments.

<https://www.puc.pa.gov/press-release/2023/puc-highlights-2023-accomplishments#:~:text=Since%20the%20start%20of%202023,them%20available%20for%20public%20review.>

Audits

The PUC Audits team released 30 reports covering 90 years of adjustment clauses and reviewed and approved approximately 352 adjustment clause filings. Management Audit staff released three Management Audits, two Management Efficiency Investigations and the 516 Annual Report for Calendar Year 2023.

The commission must do a better job in fulfilling its obligations to the public per Title 66 of the public utility Code

2. This was an informal investigation – there is no such thing as an informal investigation. Using investigation standards of the FERC and others. There are preliminary investigations and investigations. No informal investigations. An informal investigation indicates slipshod or substandard work.
3. Was this matter caused by reckless behavior, mismanagement or fraud? Follow the facts – from the outset pursue a settlement without an investigation.
4. The Commission should use its police power to the extent it needs to in these cases.
5. The Commission needs to use the requirements and guidance in the U.S. Sentencing Commission Chapter 8 <https://www.ussc.gov/guidelines/2018-guidelines-manual/2018-chapter-8> Did the Utility have an effective compliance and ethic program? Chapter 8 defines that.

This chapter reflects the following general principles:

First, the court must, whenever practicable, order the organization to remedy any harm caused by the offense. The resources expended to remedy the harm should not be viewed as punishment, but rather as a means of making victims whole for the harm caused.

Second, if the organization operated primarily for a criminal purpose or primarily by criminal means, the fine should be set sufficiently high to divest the organization of all its assets.

Third, the fine range for any other organization should be based on the seriousness of the offense and the culpability of the organization. The seriousness of the offense generally will be reflected by the greatest of the pecuniary gain, the pecuniary loss, or the amount in a guideline offense level fine table. Culpability generally will be determined by six factors that the sentencing court must consider. The four factors that increase the ultimate punishment of an

organization are: (i) the involvement in or tolerance of criminal activity; (ii) the prior history of the organization; (iii) the violation of an order; and (iv) the obstruction of justice. The two factors that mitigate the ultimate punishment of an organization are: (i) the existence of an effective compliance and ethics program; and (ii) self-reporting, cooperation, or acceptance of responsibility.

Fourth, probation is an appropriate sentence for an organizational defendant when needed to ensure that another sanction will be fully implemented, or to ensure that steps will be taken within the organization to reduce the likelihood of future criminal conduct.”

.....

The organization shall take reasonable steps—

(A) to ensure that the organization's compliance and ethics program is followed, including monitoring and auditing to detect criminal conduct;

(B) to evaluate periodically the effectiveness of the organization's compliance and ethics program; and

(C) **to have and publicize a system, which may include mechanisms that allow for anonymity or confidentiality, whereby the organization's employees and agents may report or seek guidance regarding potential or actual criminal conduct without fear of retaliation.**

6. This type of process does not serve customers and utilities well. The PUC needs to incorporate these important applicable standards into their regulations.
7. The Commission should not be settling, Infractions should be recognized and appropriate penalties assessed and require fines to be paid and certain corrections to be made.

The PUC must improve its internal processes and provide a “*tone at the top*” that reflects the leadership that it has been given in law.

Respectfully,

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

Richard C Culbertson

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