

## **Formal Complaint**

Columbia Gas of Pennsylvania, Inc.  
2021 General Rate Case  
Docket No. R-2021-3024296

Requested Annual Rate Increase of \$98,300,000

Submitted by Richard C. Culbertson on May 24, 2021

1430 Bower Hill Road

Pittsburgh, PA 15243

[Richard.c.culbertson@Gmail.com](mailto:Richard.c.culbertson@Gmail.com)

609-410-0108

### **Introduction**

I, Richard C Culbertson, as an asset management expert<sup>1</sup>, an expert at writing international ASTM and ISO Asset Management consensus standards<sup>23</sup>, property owner of several properties of which at times I am a customer and who is responsible for the financial wellbeing and security of those who reside in those properties, hereby submit this complaint to the Pennsylvania Public Utility Commission to reject, in full, this proposed rate increase is not in the public interest after due consideration of all the elements of the public interest. Gas public utilities are infrastructure companies – and are all about various forms

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<sup>1</sup> Per U.S Government Accountability Office report. <https://www.gao.gov/assets/gao-19-57.pdf> Table 3: Names and Affiliations of Experts Interviewed (Page 49): Mike Aimone, P.E., Former Director of DoD; Admiral Thad W. Allen (ret.) Former Commandant of the U.S. Coast Guard; Kerry A. Brown Professor of Employment and Industry – Australia; Richard Culbertson ...

<sup>2</sup>The United States is a signatory of the World Trade Agreement (Uruguay Accords) [https://www.wto.org/english/docs\\_e/legal\\_e/17-tbt\\_e.htm](https://www.wto.org/english/docs_e/legal_e/17-tbt_e.htm) This agreement requires -- Participation in technical expert groups (standard setters) shall be restricted to persons of professional standing and experience in the field in question. In the U.S. there are two organizations ASTM E53 Asset Management (I chair this 195-member committee) and ISO Technical Committee 251 – Asset Management (I am membership secretary).

<sup>3</sup>Example -- Primary author of ASTM E2279 ... Guiding Principles of Property Asset Management this international standard is required to be used by U.S. Department of Defense in DODI 5000.64. , <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/500064p.pdf?ver=2019-06-10-100933-460>

of asset management. Furthermore, the proposed and existing rates are unjust, unreasonable, and therefore unlawful. The result of the rate case must reject the proposed rate increase because of the lack of required internal controls (operations, reporting, and compliance) and reliable audits provide assurance that Columbia Gas is fulfilling its obligations as a public utility and as part of NiSource, a publicly traded corporation. Existing rates must be reduced to where they are not unlawful, and operations improved to the extent of which Columbia operates in the public interest. The public, customers, governments and private property owners must be made whole. Any criminal acts by Columbia or their parent company must be referred to the appropriate law enforcement authorities. Recognize customers and property owners have rights under the Unfair Trade Practices and Consumer Protection Law, 73 P.S. Sections 201-1 to 201-9.3.<sup>4 5</sup>

### **Current Condition and Needs**

This rate case presents a **crisis of trust** – that can Columbia Gas and the Commission deliver on just and reasonable rates.

*“[T]he Commission would not and should not allow a rate base to be **inflated by bookkeeping which had improperly capitalized expenses.**”<sup>67</sup>* (Hope Paragraph 82. 1944) This is exactly what has been done.

I have major concerns there is not sufficient judicial independence in the decision-making of Judge Hoyer. Whatever happens with Judge Hoyer presiding in the rate case, the results will not be universally accepted as having the appearance of impartial and independent justice. There will always

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<sup>4</sup> [https://www.attorneygeneral.gov/wp-content/uploads/2018/02/Unfair\\_Trade\\_Practices\\_Consumer\\_Protection\\_Law.pdf](https://www.attorneygeneral.gov/wp-content/uploads/2018/02/Unfair_Trade_Practices_Consumer_Protection_Law.pdf)

<sup>5</sup> It must be noted this law has been recently by the Pennsylvania strengthened by the Pennsylvania Supreme Court in *Gregg v. Ameriprise Financial, Inc.*

<sup>6</sup> FEDERAL POWER COMMISSION et al. v. HOPE NATURAL GAS CO. CITY OF CLEVELAND v. SAME Decided Jan. 3, 1944 <https://www.law.cornell.edu/supremecourt/text/320/591>

<sup>7</sup> I have placed in many places in this document words in bold, underlined or highlighted, these were added for emphasis and better understanding of the reader.

be an appearance of some sort of undue influence. Why not Administrative Law Judge Dunderdale presiding in the is rate case? For the same reasons, Judge Hoyer should not be presiding in this case.

I recognize Judge Hoyer is not independent from my complaint of May 8, 2017, against Columbia Gas of Pennsylvania of which he presided and of which the PUC still has not dispositioned. He is not independent from acting as a protector and an employee of the Pennsylvania Public Utility Commission. He is not independent as a supervisor and – protector of Judge Dunderdale, who recommended on December 4, 2020, that Columbia’s previous rate increase be denied in its entirety.

Judge Dunderdale’s Recommended Decision December 4, 2020. [R-2020-3018835 PA PUC ET AL V COLUMBIA GAS OF PA INC RD.PDF](#)

VII. ORDER (PAGE 409)

**THEREFORE,**

**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.***

This recommended order was preceded by her explanatory Introduction:

*“This base rate decision recommends the Commission deny the request of Columbia Gas Company of Pennsylvania, Inc. in its entirety because it has not met its burden of proving, by substantial evidence, that the proposed base rate revenue increase will result in just and reasonable rates, as required by 66 Pa.C.S.A. § 1301 during the current Coronavirus-2019 pandemic. (It is understood that 66 Pa.C.S.A. § 1301 does not include “during the current Coronavirus-2019 pandemic.” But is a major consideration to deny the rate increase.)*

**JOINT STATEMENT OF CHAIRMAN GLADYS BROWN DUTRIEUILLE &**

**VICE CHAIRMAN DAVID W. SWEET** <https://www.puc.pa.gov/pcdocs/1693872.pdf>

**Date: February 18, 2021**

***“As part of this fully litigated proceeding ... We support the staff recommendation before us today to reduce Columbia’s annual revenue increase from \$100,437,420 to \$63,548,905, thereby resulting in savings to challenged ratepayers.***

***Finally, while the Commission’s action today substantially reduces the impact of Columbia’s rate increase...”***

The process and thoughts by which the PUC arrived at and provided an annual rate increase of \$63,548,905 is troubling.

It is important to recognize the Judge Dunderdale has been a PUC Administrative Law Judge longer than any of the Commissioners of the PUC. When an experienced judge identifies acts or things done or omitted to be done as unlawful, others that were not a party to the rate case (staff) should have taken extreme caution in recommending to the Commission to overturn an impartial, experienced, competent, and diligent administrative law judge.

The \$63,548,905, was awarded on a “*notional vote*”. Notional votes of the Commission are not open. Yet the PUC issued a press release that “*State regulators approve smaller than requested rate increase for Columbia Gas of Pa.*” BRIAN C. RITTMAYER | Friday, Feb. 19, 2021, 5:37 p.m. <sup>8</sup>

*Title 66 § 319. Code of ethics.*<sup>9</sup>

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

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

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

(c) *Removal of judge for violation.* --***Any administrative law judge who violates the provisions of subsection (a) shall be removed from office...***

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<sup>8</sup> <https://triblive.com/local/regional/state-regulators-approve-smaller-than-requested-rate-increase-for-columbia-gas-of-pa/>

<sup>9</sup> <https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=66>

The PUC acts as a quasi-court. In Pennsylvania per the Pennsylvania Constitution, Pennsylvania Courts are open.

§ 11. Courts to be open;

***All courts shall be open; and every man for an injury done him in his lands, goods, person, or reputation [tangible and intangible property] shall have remedy by due course of law, [due process] and right and justice administered without sale, denial or delay.***

Was there a due process breach?

The staff did not preside over this rate case. They are not presiding officers, presiding officers are limited to the Commission and the Administrative Law Judges.

#### OPINION AND ORDER

3018835 OPINION AND ORDER - 3018835-OSA - EXCEPTIONS TO RECOMMENDED DECISION - COLUMBIA GAS OF PA - (NOTATIONAL VOTE)

<https://www.puc.pa.gov/pcdocs/1693880.docx>

February 19, 2021

*I Background*

*... Columbia's testimony provided that its requested increase in annual operating revenues was driven by two main contributing factors: (1) its continued **investment in its accelerated pipeline replacement program** and (2) the Company's increased expenses on a variety of safety initiatives, **including repairs to be undertaken on customer-owned pipes.***

*D. Disposition (Page 42) ... we shall decline to adopt the ALJ's recommendation to completely deny Columbia's requested rate relief due to the pandemic, for the following two reasons: (1) in our opinion, the **continued use of traditional ratemaking methodologies** during this pandemic is consistent with the setting of Just and reasonable rates and the constitutional standards established in **Bluefield and Hope Natural Gas**, and the pandemic does not change the continued application of these standards; and (2) there is a lack of substantial evidence in this record to support the ALJ's recommendation to completely deny the Company's requested rate increase....*

There is nothing in Pennsylvania's law or regulations regarding "*Traditional Ratemaking*" if this is traditional ratemaking, this is unlawful ratemaking. The Commission's Order is not within the letter and spirit of Bluefield and Hope<sup>10</sup> and Bluefield decisions apply in ratemaking today. In the Hope case:

- Accounting was not reliable as a basis for ratemaking (Foot Note 40 in part)
  - *"To make a fetish of mere accounting is to shield from examination the deeper causes, forces, movements, and conditions which should govern rates. Even as a recording of current transactions, bookkeeping is hardly an exact science."*
  - The opinions in 1944 were valid in 1944 certain laws, regulations, and standards have changed --- Generally Accepted Accounting Principles, the Federal Government's Cost Principles, and auditing requirement have significantly changed.
- *'No greater injustice to consumers could be done than to allow items as operating expenses and at a later date include them in the rate base, thereby placing multiple charges upon the consumers.'* *Id.*, 44 P.U.R.,N.S., at page 12.
- *Paragraph 12 – [T]he Commission was not bound to the use of any single formula or combination of formulae in determining rates. Its rate-making function, moreover, involves the making of 'pragmatic adjustments.' ... And when the Commission's order is challenged in the courts, the question is whether that order 'viewed in its entirety' meets the requirements of the Act.*

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<sup>10</sup> FEDERAL POWER COMMISSION et al. v. HOPE NATURAL GAS CO. CITY OF CLEVELAND v. SAME Decided Jan. 3, 1944 <https://www.law.cornell.edu/supremecourt/text/320/591>

**\*\*\* It is not theory but the impact of the rate order which counts.** If the total effect of the rate order cannot be said to be unjust and unreasonable, judicial inquiry under the Act is at an end. The fact that the method employed to reach that result may contain infirmities is not then important. Moreover, the Commission's order does not become suspect by reason of the fact that it is challenged. **It is the product of expert judgment which carries a presumption of validity.** And he who would upset the rate order under the Act carries the heavy burden of making a convincing showing that it is **invalid because it is unjust and unreasonable in its consequences.**

- Paragraph 25 The Federal Power Commission was given broad powers of regulation. The fixing of 'just and reasonable' rates (§ 4) with the powers attendant thereto [20](#) was the heart of the new regulatory system.
  - 20 The power to investigate and ascertain the 'actual legitimate cost' of property (§ 6), the requirement as to books and records (§ 8), control over rates of depreciation (§ 9), the requirements for periodic and special reports (§ 10), **the broad powers of investigation** (§ 14) are among the chief powers supporting the rate making function.

The Commission or the staff did not recognize fundamentals in *Hope* and related law – rates are based upon **property owned by the utility** and investments must be prudent or necessary under the responsibilities and commitments of the utility.

**15 U.S.C.A. § 717e Ascertainment of cost of property (a)Cost of property**

The Commission may investigate and ascertain the **actual legitimate cost of the property** of every natural-gas company, the depreciation therein, and, when **found necessary for rate-making purposes**, other facts which bear on the determination of such cost or depreciation and the fair value of such property.

What are and are not “*actual legitimate cost*” are now, defined in laws and regulations, as opposed to in the 1930s or 1940s, but the actual legitimate cost now and then would exclude costs not necessary and imprudent, such as accelerated replacements and paying for the property and maintenance that is the responsibility of other’s ... by law and tariff. We see manifestations of unreasonable cost and cost that are not actual legitimate costs in a table generated from Columbia’s parent company later in this document.

Ratemaking requires due process and due diligence (and other requirements placed upon judges in their oaths) to reach just and reasonable rates and charges. It does not appear the Commission sufficiently uses either of these. I, as an expert, property owner, and an interested party do not want that to happen in this rate case.

Again from the PA PUC -- *D. Disposition (Page 42) ... we shall decline to adopt the ALJ’s recommendation to completely deny Columbia’s requested rate relief due to the pandemic, for the following two reasons: (1) in our opinion, the **continued use of traditional ratemaking methodologies** during this pandemic is consistent with the setting of just and reasonable rates and the constitutional standards established in **Bluefield and Hope Natural Gas**, and the pandemic does not change the continued application of these standards...*

The problem with the above assertion of the requirement of the Supreme Court Case of FEDERAL POWER COMMISSION et al. v. HOPE NATURAL GAS CO. CITY OF CLEVELAND v. SAME is that the Commission’s assertion is not consistent with what the Supreme Court decided on December 3, 1944, in Hope.

Supreme Court Decision (Douglas, J.) held it is “**the result reached and not the method employed**” which is controlling in determining “*just and reasonable*” rates. Hope, 320 U.S. 13



*"The rate-making process under the Act, i.e., the fixing of 'just and reasonable' rates, **involves** (Meaning part of the process, not the primary objective or primary work.) a balancing of the investor and the consumer interests. Thus we stated in the Natural Gas Pipeline Co. case that '**regulation does not insure that the business shall produce net revenues.**' 315 U.S. at page 590, 62 S.Ct. at page 745, 86 L.Ed. 1037. But such considerations aside, the investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the **investor or company point of view** it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. ... 176. By that standard the return to the equity owner **should be commensurate with returns on investments in other enterprises having corresponding risks.** That return, moreover, **should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.** See State of Missouri ex rel. South-western Bell Tel. Co. v. Public Service Commission, 262 U.S. 276, 291, 43 S.Ct. 544, 547, 67 L.Ed. 981, 31 A.L.R. 807 (Mr. Justice Brandeis concurring). The conditions under which more or less might be allowed are not important here. Nor is it important to this case to determine the various permissible ways in which any rate base on which the return is computed might be arrived at. **For we are of the view** that the end result in this case cannot be condemned under the Act as unjust and unreasonable from the investor or company viewpoint." (Then who's point of view can determine what is unjust and unreasonable? --- the customers, (as I did in my testimony on July 8, 2020, on Columbia's previous rate case) and the Commission.)*

In Hope, the Supreme Court did not reject "general economic conditions" as an element to arrive at just and reasonable rates (paragraphs 15 and 16). But, asserted "***the result reached and not the method employed***" which is controlling in determining "*just and reasonable*" rates. Increasing rates during the Covid Pandemic, as judge Dunderdale did, certainly can be a consideration in a rate case based upon the

opinion of Justice Douglas. It is not the process but the just and reasonable outcome under the circumstances.

*Paragraph 54 [T]he Commission's rate ORDERS **must** be founded on **due consideration of all the elements of the public interest** which the production and distribution of natural gas involve just because it is natural gas. These elements are reflected in the Natural Gas Act if that Act be applied as an entirety. See, for instance, §§ 4(a)(b)(c)(d), 6, and 11, 15 U.S.C. §§ 717c(a)(b)(c)(d), 717e, and 717j, 15 U.S.C.A. §§ 717c(a—d), 717e, 717j. 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.***

Good due process and due diligence should have been sorted out independently among the ALJ, staff, and the Commission. As result customers and communities have been harmed. There was not a common understanding of the 1944 Hope decision.

PUC or staff shifted the burden of proof from the utility, who did not submit proof that their proposed rate increase was just and reasonable, to the Administrative Law Judge – nonexistent or unsubmitted evidence is not evidence. The substantial evidence that Columbia's rates were not just and reasonable was included in my sworn public input testimony that was admitted into evidence in Judge Dunderdale's Third Interim Order. Unreasonable and unjust conditions were exposed to the Columbian Gas in July 2016 when they abandoned my private property (customer's service line), when I submitted a complaint regarding numerous to the PUC May 2017, sworn testimony Columbia rate case August 2018, and sworn testimony in Columbia's Rate case in July 2020. Largely the issues identified early on remain uncorrected today as will be shown in this complaint.

Hope does provide in paragraph –10 ORDER Reducing Rates. Congress has provided in § 4(a) of the Natural Gas Act that all natural gas rates subject to the jurisdiction of the Commission **'SHALL be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful.'** Sec. 5(a) gives the Commission the power, after hearing, to determine the 'just and reasonable rate' to be thereafter observed and to fix the rate by ORDER. Sec. 5(a) also empowers the Commission to ORDER a 'decrease where existing rates are unjust \* \* \* unlawful, or are not the lowest reasonable rates.' And Congress has provided in § 19(b) that on review of these rate ORDERS the 'finding of the Commission as to the facts, if supported by substantial evidence, SHALL be conclusive.' **Congress, however, has provided no formula by which the 'just and reasonable' rate is to be determined. It has not filled in the details of the general prescription 8 of § 4(a) and § 5(a). It has not expressed in a specific rule the fixed principle of 'just and reasonable'.**

The stated omissions of the Congress and state government in 1944 are not true today. Portions of Hope is not and was not intended to be absolute. Hope is a time capsule addressing rate case conditions of Jan. 3, 1944. What is “actual legitimate cost of the property” has been clearly defined in now existing laws and regulations.

What are reasonable costs, for example, have also been defined in Government regulations – of which the PUC and Columbia are subject, such as for recipients of Federal grants 2 CFR § 200.404 Reasonable costs. § 200.404 Reasonable costs.

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

--- **consideration must be given to:**

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

(b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, ... other laws and regulations; and terms and conditions of the Federal award.

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

For comparable market prices of gas service for the geographic area surrounding Pennsylvania, NiSource provides the Columbia Gas of Pennsylvania (rate base/ rate) is outside of the generally acceptable competitive range<sup>11</sup> – thus unreasonable. The Federal Government in placing this regulation on recipients of grant money requires that grant money must be spent reasonably. The rate base and rates of Columbia Gas of Pennsylvania are unreasonable for the geographic area for rate making purposes. Furthermore prudent person in the conduct of competitive business would not spend money unnecessarily nor give away free product or service ... then expect other customers to "foot the bill".

The Pennsylvania Public Utilities Commission provides us their Mission Statement.

## Our Mission

*"The mission of the Pennsylvania Public Utility Commission is to balance the needs of consumers and utilities; ensure safe and reliable utility service at reasonable rates; protect the public interest; educate consumers to make independent and informed utility choices; further economic development; and foster new technologies and competitive markets in an environmentally sound manner."*

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<sup>11</sup> See Federal Acquisition Regulation (FAR) 15.306 Exchanges with offerors after receipt of proposals. In competitive arrangements – submissions of proposal outside to the competitive range are not considered because the supplier's cost or price is considered unreasonable. FAR 31.201-3 Determining reasonableness. (a) **A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business.**

*“ORDERS must be founded on due consideration of all the elements of the public interest. (Hope). “Due considerations” does not mean “balance”. For “protect the public interest” – protect is defense. In Hope, the considerations of public interest are active-- ***But its (rates) 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.****

This PUC Mission Statement strays from the Pennsylvania Public Utility law. The phrases in words and spirit do not include ***“balance the need”*** in any form. The first priority is not serving the needs or wants of a monopolistic public utility but to comply with the Pennsylvania Public Utility law under Title 66 <https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=66> starting with [Chapter 5. Powers and Duties.](#)

As a mission statement, the second priority should be the first priority *“ensure safe and reliable utility service at reasonable rates”*. The first priority of the Commission is PA Title 66 § 501. *General powers -- is duty to enforce; the second is exercise administrative authority and supervise public utilities; and the third priority is directed to utilities -- Compliance -- Every public utility, its officers, agents, and employees, shall observe, obey, and comply....*

The first priority of Columbia Gas should also be *“safe and reliable utility service at reasonable rates”*.

This is what the Commission promises, and the public expects.

### **The basis of rates**

By word and deed Columbia and to some extent the Commission stray from the overall meaning of the Hope decision. They take the position rates are in lockstep with spending – we spend on capital projects and you pay for what we spend, and we get a good profit as a percentage of what we have spent.

Profits come from spending.

That approach is wrong, the incentive for the utility is spending, not on the performance of safe and reliable service.

The Hope decision makes that clear – the objective of the Commission and Columbia is not to make a good profit for Columbia but to serve the **public interest**.

Pennsylvania Law provides for the Commission: *Title 66 § 523. Performance factor consideration.*

**(1986)**

*(a) Considerations. --The commission shall consider, in addition to all other relevant evidence of record, the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates under this title. On the basis of the commission's consideration of such evidence, it shall give effect to this section by making such adjustments to specific components of the utility's claimed cost of service as it may determine to be proper and appropriate. Any adjustment made under this section shall be made on the basis of specific findings upon evidence of record, which findings shall be set forth explicitly, together with their underlying rationale, in the final order of the commission.*

**Here the requirement** is based upon performance and to do that, performance criteria must be established (Now we call them elsewhere “Key Performance Indicators (KPIs)”. It does not appear that the Commission has set these KPI at are used consistently. Under good oversight, these KPIs would be audited with independent audits. The GAO Yellow Book addresses performance audits. Columbia and the Commission do not use the requirements and guidance in the GAO Yellow Book.

So, the Commission and Columbia rely on “traditional” ratemaking, which gravitates to a “cost plus percentage of cost” understanding and arrangement. The incentive in this type of arrangement is to

spend money on capital projects, which establishes the rate base. The table provided below of which data was provided from facts of the parent company NiSource, shows the product of such an approach.

The Cost-Plus Percentage of Cost contract or arrangement is illegal in Government contracting – it is also not allowed in 2 CFR 200 under Federal Grant requirements

The Uniform Rules' Cost or Price Analysis Standards – 2 C.F.R. § 200.324.<sup>12</sup> d) ***The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.*** (Footnote 14)  
(Emphasis added. These contracting methods must never be used.)

Footnote 14"<sup>13</sup> These types of contracts are strictly prohibited. They are prohibited because there is no incentive for the contractor to keep its incurred costs low due to the associated percentage of profit earned on incurred costs. There is instead a reverse incentive for the contractor to continue to increase its incurred costs in order to increase its associated profit. In other words, the higher its incurred costs, the higher the contractor's profit will be.

Columbia's rates do not "further economic development" they impede economic development and grossly harm those most who cannot afford unreasonable rates.

### **Nature of Complaints.**

#### **66Pa.C.S. 701. Complaints.**

*The commission, or **any person**, ... **having an interest in the subject matter**, ... 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*

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<sup>12</sup> <https://www.law.cornell.edu/cfr/text/2/200.324>

<sup>13</sup> PRICING GUIDE FOR RECIPIENTS AND SUBRECIPIENTS UNDER THE UNIFORM RULES (2 C.F.R. PT. 200) PFLD-FISCAL PDAT FEMA OFFICE OF CHIEF COUNSEL., Footnote page 8.

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.

## **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.

### **Types of Violations:**

**Internal Controls** – (A) effective and efficient operations, (B) Reliable Reporting, and (C) Compliance with law, regulations, standards, tariff, and internal policy. The PA PUC and NiSource/ Columbia Gas of Pennsylvania are subject to the internal control standards—GAO Green Book and the COSO Integrated Internal Control Framework (2013) (As asserted by management in the NiSource SEC 10-K) and Management Directive of the Governor’s Office -- Standards for Internal Controls in Commonwealth Agencies 325.12 Amended (2018).

### ***“PA Energy Consumer Bill of Rights”***

[https://www.puc.state.pa.us/general/consumer\\_ed/pdf/Consumer\\_Bill\\_Of\\_Rights.pdf](https://www.puc.state.pa.us/general/consumer_ed/pdf/Consumer_Bill_Of_Rights.pdf)

(A) *Safe and reliable utility service*

(B) *Providing the utility with access to its equipment -- **their meter (only).***

(C) *Competitive energy marketplace.*

(D) *To receive the benefits of new services, technological advances, improved efficiency, and **competitive prices.***

(E) *The **right to be protected from unfair, deceptive, fraudulent, and anti-competitive practices of providers** ... natural gas service.*

(F) *Expectation of quality, reliability, and maintenance of your ... natural gas distribution service... **monitored by the PUC.***

(G) ***Unbiased, accurate and understandable information...***

Facts provided from NiSource, Parent of Columbia Gas



<https://investors.nisource.com/company-information/default.aspx>

COMPANY FACTS		
<b>Columbia Gas of Kentucky</b> <ul style="list-style-type: none"> <li>✓ Second Largest Gas-Only local distribution company (LDC) in KY (~137K Customers)</li> <li>✓ ~ 2,600 Miles of Pipe</li> <li>✓ ~ 350 Miles of Bare Steel &amp; Cast Iron</li> <li>✓ ~ \$327M Rate Base</li> </ul>	<b>Columbia Gas of Maryland</b> <ul style="list-style-type: none"> <li>✓ Complementary to PA Operations (~34K Customers in MD)</li> <li>✓ ~ 660 Miles of Pipe</li> <li>✓ ~ 50 Miles of Bare Steel &amp; Cast Iron</li> <li>✓ ~ \$149M Rate Base</li> </ul>	
<b>Columbia Gas of Ohio</b> <ul style="list-style-type: none"> <li>✓ Largest LDC in Ohio (~1.5M customers)</li> <li>✓ ~ 20,200 Miles of Pipe</li> <li>✓ ~ 2,000 Miles of Bare Steel &amp; Cast Iron</li> <li>✓ ~ \$3.2B Rate Base</li> </ul>	<b>Columbia Gas of Pennsylvania</b> <ul style="list-style-type: none"> <li>✓ Third Largest LDC in PA (~436K Customers)</li> <li>✓ ~ 7,700 Miles of Pipe</li> <li>✓ ~ 1,200 Miles of Bare Steel &amp; Cast Iron</li> <li>✓ ~ \$1.9B Rate Base</li> </ul>	<b>Columbia Gas of Virginia</b> <ul style="list-style-type: none"> <li>✓ Third Largest LDC in VA (~274K Customers)</li> <li>✓ ~ 5,300 Miles of Pipe</li> <li>✓ ~ 140 Miles of Bare Steel</li> <li>✓ ~ \$850M Rate Base</li> </ul>
<del> <b>Indiana Electric (NIPSCO)</b> <ul style="list-style-type: none"> <li>✓ Third Largest Electric Utility in Indiana (~475K Customers)</li> <li>✓ 2,850 Miles of Environmentally Compliant Generation</li> <li>✓ ~3,000 Distribution Line Miles</li> <li>✓ ~3,000 Transmission Line Miles</li> <li>✓ ~ \$4.7B Rate Base</li> </ul> </del>	<b>Indiana Gas (NIPSCO)</b> <ul style="list-style-type: none"> <li>✓ Largest LDC in Indiana (~840K Customers)</li> <li>✓ ~ 17,500 Miles of Pipe</li> <li>✓ ~ 23 Miles of Bare Steel &amp; Wrought Iron</li> <li>✓ ~ \$1.7B Rate Base</li> </ul>	

**The NiSource Facts** – when normalized in a table it provides a rate base per customer. (2 CFR § 200.404 - Reasonable costs. (The numbers are probably real from the records of the NiSource and Columbia.)

*A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. ... consideration must be given to: (c) Market prices for comparable goods or services for the geographic area.*

The rate base per customer is not reasonable for the services in the geographic area. The facts from NiSource, the parent company of Columbia Gas of Pennsylvania show the **product of past practices**.

Columbia Gas of Pennsylvania should not be rewarded for not having effective internal controls that result in waste, fraud, and abuse. This chart alone is justification not to grant this rate increase for Columbia Gas of Pennsylvania. This chart alone should prompt the Commission to order an external independent performance, forensic and financial audit of Columbia Gas of Pennsylvania, which I am requesting.

**It is in the public interest to find out why the rate base and rates are so much higher in Pennsylvania than in NIPSCO (Indiana), Ohio, and Kentucky and this is what I am requesting from the Commission.**

**This chart alone provides sufficient substantial evidence that Columbia Gas of Pennsylvania's rate or charges are not just and reasonable and must be declared unlawful as required under 15 U.S.C. COMMERCE AND TRADE § 717c - Rates and charges and PA Title 66 § 1301. Rates to be just and reasonable.**

**This one table of substantial evidence to not raise rates, outweighs Columbia's 10 volume submission of why the rate should be increased.**

	~ No. of Customers (In 000)	Miles of Pipe	Calculated Miles of pipe per customer	Miles of Bare Steel and Cast Iron	Rate Base (\$ 000,000)	Calculated Rate Base Per Customer \$	
NIPSCO	840	17500	.020	23*	1700	*2024	
COH	1500	20200	.013	2000	3200	2133	
CKY	137	2600	.019	2600	327	2387	
CVA	274	5300	.019	140**	850	3102	
CMD	34	660	.018	50	149	4382	
SUB TOL	2785				6226	2236	Ave
CPA	433	7700	.018	1200	2400	** 5545	
	3548				8626		

\*\* CPA data was updated from information included in the Administrative Law Judge's Recommended Decision on December 4, 2020, Rate Case - R-2020-3018835. (Rate base \$2,401,427,019 and ~433,000 customers -- ~ \$5,545 per customer. This can be construed to be a hidden liability for each customer and their share of the rate base. The cost of money is substantial for each ratepayer. This high rate base per customer makes Columbia non-competitive in the energy marketplace.)

**The rate base per customer is 2.7 times more in Pennsylvania than Indiana and 2.6 for Ohio.** This is prima facie evidence that the **rate base is unreasonable thus rates are unreasonable.** The law of the land is that rates and charges must be just and reasonable otherwise they are unlawful.

\$5,545 is the proportional share of hidden debt each customer has for gas piping. Doing the math --If CPA had been operating as efficiently as NIPSCO (Indiana), CPA's rate base could be **~\$1,524,593,000 less.**

The figures are not adjusted for the "stub service"<sup>14 1516</sup> of which CPA provides (the service line excludes customer's service line) – meaning the only utility property on private property is the meter assembly. A new customer's service line has an estimated cost of \$2,000.

<sup>14</sup> 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>

<sup>15</sup> Account 380 Services. A. This account shall include the cost installed of service pipes and accessories leading to the customers' premises. B. A complete service begins with the connection on the main and extends to but does not include the connection with the customer's meter. A **stub service** extends from the main to the property line, or the curb stop.

The variance of rate base per customer for CPA in comparison to neighboring sister companies of NiSource makes Columbia Gas of Pennsylvania's financials and operations suspect. For prudent auditors, investors, and the Commission, this should present suspicions and red flags of waste, fraud, and abuse. Customers have a right to assurance that Columbia has adequate internal controls and that rates are just and reasonable and are not unlawful.

From the facts provided by CPA's parent – it is apparent that CPA has performed unnecessary and not reasonable work.

**I recommend** the Administrative Law Judge **focus the rate case solely on this evidence** in and about the chart and declare and **deny this rate increase request in its entirety**.

It is not in the public interest to stay on the path to further abuse ratepayers.

The case is made in this complaint – now Columbia must prove by substantial evidence that the information of which they and their parent provided to the Commission and the public is wrong and should not be considered in this rate case.

For further investigation by Columbia and the Commission, understanding, appropriate action in this rate case or otherwise, I also provide.

**Itemized general and specific complaints:**

<b><u>From the format provided in 66Pa.C.S. 701. Complaints.</u></b>		

<p><u>Act or thing done or omitted to be done by Columbia:</u></p>	<p><u>Violation, or claimed violation, of any law, which the commission has jurisdiction to administer, or of any regulation or order of the commission;</u></p> <p><u>Expectation to investigate;</u></p> <p><u>Counter with the expected burden of proof from Columbia.</u></p>	<p><u>Comments:</u></p> <p>The Commission has jurisdiction over natural gas service consistent with the boundaries of responsibility of the utility and the Commission.</p> <p>Columbia has the responsibility to maintain reliable internal controls</p>
<p>Columbia includes in their rate base costs that are not “<i>actual legitimate cost</i>”, are not necessary, and are unreasonable.</p>	<p>To be considered as part of the rate base and rates it must have entered <u>legally</u> “<i>into the consideration</i>”. <i>U.S. Reports: Bluefield Co. v. Pub. Serv. Comm., 262 U.S. 679 (1923)</i></p>	<p>Determining what are “<i>actual legitimate cost</i>” requires, knowledge, expertise, competence, due process, and due diligence for accounting, operations and ratemaking purposes.</p>

	<p><b>15 USC Ch. 15B: NATURAL GAS</b></p> <p><b>§717e. Ascertainment of cost of property ... “actual legitimate cost”</b></p> <p><u>“All costs which a public utility uses to compute its base rate, including improvements to infrastructure and to safety, are relevant in a base rate proceeding. In addition, safety specifically is always a relevant issue in a base rate proceeding.”<sup>17</sup></u></p>	<p>Self-assertion is not sufficient – reasonable assurance of internal controls are required.</p> <p>This occurs through using the Integrated Internal Control Framework and reliable audits.</p>
<p>Columbia has not fulfilled its obligations for effective integrated internal controls.</p>	<p>Title 66 § 501. General powers.</p> <p>(c) <b>Compliance.</b> <u>Every</u> public utility, its officers, agents, and employees, and every other person or corporation subject to the provisions of this part, affected by or subject to any</p>	<p>The overall framework for a compliant organization is not in place.</p> <p>This law applies to all Federal and Pennsylvania applicable laws, regulations, and standards.</p>

<sup>17</sup> PA PUC Rate Case, Docket R-2020-3018835 ALJ Judge Dunderdale Third Interim Order December 4, 2020

	<p>regulations or orders of the commission or of any court, made, issued, or entered under the provisions of this part, <b>shall</b> <b><u>observe, obey, and comply with such regulations or orders, and the terms and conditions thereof.</u></b></p> <p>Chapter 8 of the U.S. Sentencing Commission SENTENCING OF ORGANIZATIONS <sup>18</sup>applies as appropriate.</p>	
<p>Columbia does not have effective integrated internal controls and audits to assure unreasonable costs do not get into the rate base, as the parent NiSource claims in their SEC 10-K reports.<sup>19</sup></p>	<p>The Commission expects the same high standards of accounting as other Government agencies.</p> <p><i>PA Title 66 § 1351. Definitions.</i></p> <p><i>"Capitalized cost." Costs permitted to be capitalized pursuant to the Uniform System</i></p>	<p>Accounting standards must not be violated for investor reporting purposes or ratemaking purposes.</p> <p>Internal controls are to prevent and detect wrong reporting based upon the COSO Integrated Internal Control Framework and the GAO Green Book – the major control</p>

<sup>18</sup> UNITED STATES SENTENCING COMMISSION CHAPTER EIGHT - SENTENCING OF ORGANIZATIONS  
<https://www.ussc.gov/guidelines/2018-guidelines-manual/2018-chapter-8>

<sup>19</sup> For the fiscal year ended December 31, 2020 <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001111711/9f4ccf64-7861-4b15-936d-32aaaadeafa7.pdf> (Page 118)

	<p><i>of Accounts and Generally Accepted Accounting Principles.</i></p> <p><i>15 U.S. Code § 78m - Periodical and other reports (This law (Securities and Exchange Act of 1934, is placed upon Columbia as part of publicly traded corporation.)</i></p> <p><i>(2) Every issuer ... <b><u>shall</u></b>—</i></p> <p><i>(A)make and keep books, records, and accounts, which, in reasonable detail, <u>accurately and fairly</u> reflect the <u>transactions and dispositions of the assets of the issuer;</u></i></p> <p><i>(B)devise and maintain a system of <b><u>internal accounting controls</u></b> sufficient to provide <b>reasonable assurances</b> that—</i></p>	<p>elements: effective and efficient operations, reliable reporting, compliance with laws, regulations, standards, contracts... and protection of assets.</p>
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*“Our management has adopted the 2013 framework set forth in the Committee of Sponsoring Organizations [COSO] of the Treadway Commission report, Internal Control - Integrated Framework, the most commonly used and understood framework for evaluating internal control over financial reporting, as its framework for evaluating the reliability and effectiveness of internal control over financial reporting.”* Note - the integrated framework includes operations and compliance along with reporting.

	<p>(i) transactions are executed in accordance with management's general or specific authorization;</p> <p>(ii) transactions are recorded as necessary (I) to permit preparation of financial <b>statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements,</b> and (II) to maintain accountability for assets;</p> <p>(iii) access to assets is permitted only in accordance with management's general or specific authorization; and</p> <p>(iv) the <u>recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences;</u> and</p> <p>(4) No <u>criminal liability</u> shall be imposed for failing to comply</p>	
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	<p><i>with the requirements of paragraph (2) of this subsection <u>except as provided in paragraph (5) of this subsection.</u></i></p> <p><i>(5) <b>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).</b></i></p>	
<p>Columbia’s costs under the <b><u>accelerated</u></b> pipeline replacement program <b><u>are not actual legitimate costs</u></b> because these costs were <b>not necessary.</b></p> <p>Unnecessary costs are unallowable costs for reporting, ratemaking, and recovery purposes.</p> <p>Columbia claims these unnecessary costs as if they were necessary.</p>	<p><i>Columbia’s Tariff (<b>Contract</b>): 8.4 Ownership and Maintenance</i></p> <p><i>The Company <b>shall</b> own, maintain and renew, <u>when necessary, its main extension and/or service line</u> from its main to the <u>point of delivery</u>, as defined in Rule 7.1.</i></p> <p><i>7.1 Point of Delivery</i></p> <p><i>The point of delivery of gas to a customer shall be at the <u>outlet side of the curb valve, or the property or lot line</u> if there is no</i></p>	<p>Truncating the economic life of “suitable for use assets” and replacing them with other assets is squandering value (waste), resulting in unreasonable cost.</p> <p>Unreasonable cost is unallowable for accounting, recovery, and reporting purposes.</p> <p>This practice unreasonably increases the rate base and</p>

<p>The regulations nor the tariff contract have changed to make the unnecessary -- necessary. A tariff is a bilateral contract.</p> <p>At a minimum, this is a breach of contract.</p> <p>Ramifications could include violations of the Federal False Claims Act.<sup>20</sup></p>	<p><i>curb valve, at which point <u>title of the gas shall pass to the customer</u>; ...</i></p> <p><i>PUC's representations to Customers:</i></p> <p><b><i>Right to Safe and Reliable Utility Service<sup>21</sup> (service stops upon delivery)</i></b></p> <p><i>The Pennsylvania Public Utility Code <u>requires</u> that every public utility to create ensure and maintain adequate, efficient, safe, reliable and reasonable service. and maintain <u>adequate, efficient, safe and reasonable service and facilities</u>. Utilities also are</i></p>	<p>consumer's rates without corresponding substantial benefits.</p> <p>The utility is required to maintain adequate, efficient, and safe service and facilities. What Columbia does is referred to as "so-called 'Averch-Johnson Effect'—or more crudely, "gold plating."<sup>22</sup></p> <p>The table above from NiSource clearly shows the Columbia has succumbed to the "Averch-Johnson Effect". Columbia's work is sometimes more than adequate, not efficient, and not necessary work.</p>
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<sup>20</sup> 31 U.S. Code § 3729 - False claims <https://www.law.cornell.edu/uscode/text/31/3729>

<sup>21</sup> PA Energy Consumer Bill of Rights [https://www.puc.pa.gov/general/consumer\\_ed/pdf/Consumer\\_Bill\\_Of\\_Rights.pdf](https://www.puc.pa.gov/general/consumer_ed/pdf/Consumer_Bill_Of_Rights.pdf)

<sup>22</sup> A Guide To Utility Ratemaking page 156 [https://www.puc.pa.gov/General/publications\\_reports/pdf/Ratemaking\\_Guide2018.pdf](https://www.puc.pa.gov/General/publications_reports/pdf/Ratemaking_Guide2018.pdf)

	<p><i>required to <b><u>make necessary repairs and improvements to service and facilities.</u></b></i></p>	
<p>Columbia is not following Pennsylvania law regarding what is charged to capitalized costs that go into the rate base.</p> <p>Placing cost of other's property -- customer's service lines, as if utility-owned these are unlawful.</p> <p>Columbia has been charging cost customer's service lines to</p>	<p><i>PA Title 66 "Rate base." The value of the whole or any part of the <b><u>property of a public utility</u></b> which is used and useful in the <b><u>public service.</u></b></i></p> <p><i>§ 1501. Character of service and facilities.</i></p> <p><i>Every <b><u>public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes,</u></b></i></p>	<p>It is recognized the Commission approved the practice of replaced customer's service lines to be charged to the 376 Mains account in 2008.<sup>24</sup> It was wrong then and it is wrong now.</p> <p>The Commission is not empowered to issue illegal orders counter to PA title 66, GAAP, and the Uniform System of Accounts. Columbia puts themselves at risk when they knowingly follow illegal orders.</p>

<sup>24</sup> Docket No. P-00072337, Public Meeting held May 1, 2008. IT IS ORDERED: 1. That the Columbia Gas of Pennsylvania Inc. petition for limited waivers of tariff rules 4.7, 4.8, 4.9, 4.10, 4.13, 5.3, 8.1(a), and 8.4 related to customer service line replacement is approved. The waiver only applies to the Tariff, not to Federal and Pennsylvania law and regulations. It does not appear the tariff was modified to reflect this side deal.

Uniform System of Accounts, Account 376.08 Mains- CSL Replacements. CSL is Customer Service Line Replacements. Account 376 Mains and Account 380 Services do not provide for the inclusion of non-utility property. Account 380 specifically excludes customer's service lines with the recognition of "stub service". <sup>23</sup>	<p><i><u>alterations, substitutions, extensions, and improvements in or to such service and facilities as <b>shall be necessary</b> or proper for the accommodation, convenience, and <u>safety of its patrons, employees, and the public.</u></u></i></p> <p><i>§ 1510. Ownership and maintenance of natural and artificial gas service lines.</i></p> <p><i>When connecting the premises of the customer with the gas utility distribution mains, the public utility shall furnish, install and maintain the service line or connection according to the rules and regulations of the filed tariff. <b>A public utility shall not</b></i></p>	<p>The saying – “<i>be careful what you ask for</i>” is good advice. Regardless, Columbia is solely responsible for what it does.</p> <p>The jurisdiction of the Commission does not include expanding nor reducing the property rights and obligations of private property owners per U.S. (14<sup>th</sup> Amendment) and PA (Article I § 1.) Constitutions. A customer's service line is real property of a property owner and is included in deeds as appurtenances.</p> <p><b>2 CFR § 200.404 - Reasonable costs.</b></p> <p>A cost is reasonable if, in its nature and amount, it does not exceed that which would be <u>incurred by a</u></p>
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<sup>23</sup> <https://www.law.cornell.edu/cfr/text/18/part-201> Includes -- Items 1. Curb valves and curb boxes. 2. Excavation, including shoring, bracing, bridging, pumping, backfill, and disposal of excess excavated material. 3. Landscaping, including lawns, and shrubbery. 4. Municipal inspection. 5. Pavement disturbed, including cutting and replacing pavement, pavement base, and sidewalks.

	<p><b><i>be authorized or required to acquire or assume ownership of any customer's service line.</i></b></p> <p>(That means any portions or component of a customer's service line including the riser)....</p> <p><b><u>Maintenance of service lines shall be the responsibility of the owner of the service line.</u></b></p>	<p><u>prudent person</u> under the circumstances prevailing at the time the decision was made to incur the cost. ... <b><u>consideration must</u></b> be given to:</p> <p>(a) Whether the cost is of a type generally <u>recognized as</u> ordinary and <b><u>necessary</u></b> ... or the proper and efficient performance ...</p> <p>(c) <b><u>Market prices</u></b> for comparable goods or services <b>for the geographic area.</b></p> <p>Account 380 Services. Does include -- 5. Pavement disturbed, including cutting and replacing pavement, pavement base, and sidewalks.</p> <p>For accounting purposes capital direct cost generally include cost to acquire and place an asset ready for use.</p>
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		<p>In 380, appurtenances of a private property owner are specifically beyond a stub service and therefore outside of the jurisdiction of authority and control of the utility and the Commission.</p> <p>Placing cost of replacement and maintenance of Customer's service lines in Account 376 – Mains is also inappropriate and – frankly deceptive.</p> <p>Accounting concepts in FASB Concept 8<sup>25</sup></p> <p>QC4. If financial information is to be <b>useful, it <u>must</u> be</b> relevant and <u>faithfully</u></p>
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<sup>25</sup> Financial Accounting Standards Board (FASB) Statement of Financial Accounting Concepts No. 8, September 2010  
[https://www.fasb.org/cs/ContentServer?c=Document\\_C&pagename=FASB%2FDocument\\_C%2FDocumentPage&cid=1176171111614](https://www.fasb.org/cs/ContentServer?c=Document_C&pagename=FASB%2FDocument_C%2FDocumentPage&cid=1176171111614)

		<p><u>represent what it purports to represent.</u> The usefulness of financial information is enhanced if it is comparable, verifiable, timely, and understandable.</p>
<p>The current rate base and current rates and proposed rates have <u>not</u> been based upon “<b>actual legitimate cost</b>”.</p> <p>Actual legitimate costs are based upon laws, regulations, standards, contracts, tariffs, and legal orders. Columbia has provided non-compliant financials.</p>	<p><i><u>Hope Paragraph 6 'No greater injustice to consumers could be done than to allow items [such] as operating expenses and at a later date include them in the rate base, thereby placing multiple charges upon the consumers.'</u> Id., 44 P.U.R.,N.S., at page 12.</i></p> <p><i>Hope- Paragraph 12 – [T]he Commission was not bound to the use of any single formula or combination of formulae in determining rates. Its rate-making function, moreover, involves the making of 'pragmatic adjustments.' ... And</i></p>	<p>The US Government and Pennsylvania require the use of the GAO Green Book (Internal Controls), GAO Yellow Book (Audits) and TITLE 2—Grants and Agreements PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS</p> <p>Management Directive of the Governor’s Office -- Standards for Internal Controls in Commonwealth Agencies 325.12 Amended (2018)</p> <p>Management Directive of the Governor’s Office -- Performance of</p>

	<p>when the Commission's order is challenged in the courts, <b>the question is whether that order 'viewed in its entirety' meets the requirements of the Act.</b></p> <p><b>From Hope—Paragraph 54</b></p> <p><i>These elements are reflected in the Natural Gas Act, if that Act be applied as an entirety. See, for instance, §§ 4(a)(b)(c)(d), 6, and 11, <a href="#">15</a> U.S.C.</i></p> <p><i>§§ <a href="#">717c(a)(b)(c)(d)</a>, <a href="#">717e</a>, and <a href="#">717j</a>, <a href="#">15 U.S.C.A.</a> §§ 717c(a—d), 717e, 717j. Of course the statute is not concerned with abstract theories of ratemaking. But its very foundation is the '<b>public interest</b>', and the public interest is <b>a texture of multiple strands.</b></i></p> <p><i><u>It includes more than</u></i></p> <p><i>contemporary investors and contemporary consumers. The</i></p>	<p>Audit Responsibilities 325.3</p> <p>Amended (2011)</p> <p>Reasonable assurances of “<b>actual legitimate cost</b>” are only a starting place in ratemaking.</p> <p>We the participants, and ratepayers have no reasonable assurance that the rate base is comprised of “<b>actual legitimate cost</b>” – That is expected from Columbia before a rate case begins.</p>
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	<p><i>needs to be served are not restricted to immediacy, and <b><u>social as well as economic costs must be counted.</u></b></i></p> <p><i>“The “principal purpose” of the Natural Gas Act is to encourage the orderly development of <b><u>plentiful supplies of ... natural gas at reasonable prices.</u></b>”</i></p> <p>NAACP v. FPC, 425 U.S. 662, 669-70 (1976).</p>	<p>Judge Dunderdale did consider the social and economic cost on ratepayers.</p> <p>Distribution cost and prices of natural gas services is no longer reasonable from Columbia Gas and does not fulfil the principle purpose of the National Gas Act.</p>
Some costs as represented as owned are not owned by Columbia Gas.	<p><i>PA Title 66 "Rate base." The value of the whole or any part of the <b><u>property of a public utility</u></b> which is used and useful in the <b><u>public service.</u></b></i></p> <p>The current rate base and proposed additions to the rate</p>	<p><b><u>Customer's service lines nor portions thereof are neither owned nor used in public service.</u></b></p> <p>The rate base must only include actual legitimate costs. The rate base must be reduced accordingly.</p>

	base must be assets that are owned by Columbia Gas.	
Columbia Gas nor the Pennsylvania Public Utilities Commission's organization provide reasonable assurance to customers, property owners, governments, investors, and other decision-makers and stakeholders that performance and attestation audits have been performed in conformance with required internal controls and generally accepted audits.	<p><b><i>"PA Energy Consumer Bill of Rights" (E) and (G).</i></b></p> <p><b><u>The audits performed by Columbia and the PUC are not consistent with high-quality audits standards. They provide the company, the Commission nor consumers no assurance of effective internal controls.</u></b></p>	<p>Adjudicating increases in rates is not the time for non-professional auditors to provide assurance of effective internal controls – in operations, reporting, and compliance in a rate case.</p> <p>The PA PUC must fulfill its obligations under the <b><i>"PA Energy Consumer Bill of Rights"</i></b>, and <b>Federal and Pennsylvania laws and regulations.</b></p> <p><b>The public must have reasonable assurance that Columbia is performing to its obligations.</b></p>

<p>General – material weaknesses in Columbia’s internal audits.</p> <p>Columbia’s auditors claim they conduct audits in conformance with ... <i>“This audit conforms with the International Standards for the Professional Practice of Internal Auditing.”</i></p> <p>This organization sponsored COSO Integrated Internal Control Framework. An element of that is Compliance with Laws and Regulations.</p> <p>Columbia does not follow generally accepted audit practices – resulting in unreliable audits.</p>	<p>For example, terms to be used in audits that inform management, the Board of Directors, PUC supervisors and regulators, investors, governments, consumers, and other stakeholders for decision-making purposes include:</p> <p><i>A2. A <b>control objective</b> provides a specific target against which to evaluate the effectiveness of controls. A control objective for internal control over financial reporting generally <u>relates to a relevant assertion</u> and states a criterion for evaluating whether the company's control procedures in a specific area provide <b>reasonable assurance</b> that a misstatement or omission in that relevant assertion is</i></p>	<p>The Commission’s auditors do not do a good job of this either as they do not use the GAO Yellow Book.</p> <p>The Commission’s audit released in July 2020 used the terms weaknesses and deficiencies but not the proper complete terms. This resulted in Columbia believing they had a good audit but for those who know what to look for in audits, this appeared to be a failed audit.</p> <p>The PUC audits are public documents and can be used for decision-making for investors. It is harmful when there is lacking use of proper standards, completeness, and misuse of terminology.</p>
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<p>After Sarbanes Oxley was passed a part of the was establishing the Public Company Accounting Oversight Board. (PCAOB) The PCAOB established a series of Audit Standards that are placed upon public accounting firms. Here in Audit Standard No.5 with Appendix A <sup>26</sup>are definitions that auditors are to use.</p> <p><u>These terms above are not used correctly in the PUC and NiSource audits.</u></p> <p>When not following the proper internal control</p>	<p><i>prevented or detected by controls on a timely basis.</i></p> <p>A7. <b><u>A material weakness</u></b> is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a <u>reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis.</u></p> <p>A11. <b><u>A significant deficiency</u></b> is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is <u>less severe than a material weakness, yet important enough to merit attention by those</u></p>	
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<sup>26</sup> PCAOB Auditing Standard No. 5, An Audit of Internal Control Over Financial Reporting that is Integrated with an Audit of Financial Statements and APPENDIX A – Definitions  
[https://pcaobus.org/oversight/standards/archived-standards/pre-reorganized-auditing-standards-interpretations/details/Auditing\\_Standard\\_5\\_Appendix\\_A#:~:text=A%20material%20weakness%20is%20a,detecte d%20on%20a%20timely%20basis](https://pcaobus.org/oversight/standards/archived-standards/pre-reorganized-auditing-standards-interpretations/details/Auditing_Standard_5_Appendix_A#:~:text=A%20material%20weakness%20is%20a,detecte d%20on%20a%20timely%20basis)

<p>framework and the required audit standards, material deficiencies, and significant weaknesses are missed, making those financial, operational and compliance audits unreliable.</p>	<p><u>responsible for oversight of the company's financial reporting (Board of Directors Audit Committee).</u></p> <p>A3. <b>A deficiency in internal control over financial reporting exists when the <i>design or operation</i> of a control does not allow management or employees, in the normal course of performing their assigned functions, to <b>prevent or detect</b> misstatements on a timely basis.</b></p> <p>A deficiency in design exists when (a) a control necessary to meet the control objective is missing or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective would not be met.</p>	
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	<p><i>A deficiency in operation exists when a properly designed control does not operate as designed, or when the person performing the control does not possess the necessary authority or competence to perform the control effectively.</i></p>	
<p>NiSource uses the term Gas Standards instead of company policy as a means to deceive the public and themselves into believing that a Gas Standard is more than an internal company policy.</p>	<p>The internationally and domestically agreed-upon definition of standard is found in Annex 1 of the World Trade Agreement<sup>27</sup> <i>“Standard -- <u>Document approved by a <b>recognized body</b>, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, ....”</u></i></p>	<p>Recognized bodies are recognized in the U.S. by the National Institute of Standards (NIST) and the American National Institute of Standardization (ANSI). NiSource is not one of them.</p> <p>NiSource does not issue standards.</p> <p>ISO and ASTM along with others identified in 49 CFR 192.7 ... documents are incorporated by reference [IBR] do.</p>

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<sup>27</sup> URUGUAY ROUND AGREEMENT – WORLD TRADE ORGANIZATION (1986-94)  
[https://www.wto.org/english/docs\\_e/legal\\_e/17-tbt\\_e.htm](https://www.wto.org/english/docs_e/legal_e/17-tbt_e.htm) This was codified in the ‘National Technology Transfer and Advancement Act of 1995’. <https://www.nist.gov/standardsgov/national-technology-transfer-and-advancement-act-1995>

		<p>NiSource Gas Standards are not standards. If NiSource had adopted the International Management Systems Standard ISO 9000 Quality Management – one of the first findings would be that NiSource does not have control of its policies and procedures. The finding would start with NiSource Gas Standards are not standards they are merely internal policy and only apply internally. Internal policy must be consistent with Internal Controls under Compliance with Laws and Regulations.</p>
<p>A specific example of poor internal auditing: Starting with Audit Report 13 page 157 of 352 or 126 of 319 Columbia’s Volume 4 of 10<sup>28</sup> Abandonment of Service Line Facilities.</p>	<p>§ 1301. Rates to be just and reasonable.</p> <p><i>a.Regulation. --Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall</i></p>	<p>The GAO provides qualifications of an auditor. It is not good enough to go through the motions of an audit or bypass those qualifications. The purpose of audits is to prevent and detect waste, fraud, and abuse as well as</p>

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<sup>28</sup> PUC Docket R-2021-3024296 Exhibit 13 Volume 4 of 10 PUC document 1698218

<p>Unreasonable costs are charged to capital accounts because of weak internal controls.</p> <p>From the Executive Summary, <i>the review focused on the processes and controls in place to perform the following: ... Execution of a service line abandonment in accordance with NiSource Gas Standards.</i></p> <p>Here the auditor gave a pass on the internal controls of NiSource Gas Standard 1740.010 Abandonment of Facilities. They also overlooked GS 1740.010(PA), which applies only to</p>	<p><i>be just and reasonable, and in conformity with regulations...</i></p> <p>52 Pa. Code § 59. - Abandonment of inactive <u>service lines</u>.</p> <p>(This regulation only applies to company owned service lines – Not customer’s service lines.) In the PA Public Utility Code Title 66 section 102 that was published in 1984, service lines and customer’s service line are defined. (These terms are not to be used interchangeably.)</p> <p>The Commission used the term “service line” correctly. Frequently Columbia does not.</p>	<p>to improve operations. Audits should provide reliable and material information for decision-making purposes.</p> <p>The NiSource Gas Standards are not recognized standards – they are just internal policies. The term standard is used to be deceptive to those who do not understand standards.</p>
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<p>Pennsylvania. The PA Gas Standard Includes PA PUC regulation Chapter 59.36. Here, NiSource/ CPA just appended the Pennsylvania requirements on the back of the NiSource Gas Standard. The PA PUC regulation conflicts with the NiSource Gas Standard.</p> <p>The Pennsylvania regulation takes a performance standard approach vs. a design approach of the NiSource internal policy;</p> <p><i>“A <u>review of the status of service lines that have had gas service discontinued shall be made annually, at periods not exceeding 15 months [To determined there is no prospect for reuse]. Lines which no</u></i></p>		<p>Internal policies never supersede laws, regulations, contract tariff and consensus standards.</p> <p>It is important for the reader to understand the difference between a performance standard and a design standard. From the World Trade Agreement 2.8 <i>Wherever appropriate, Members <b><u>shall specify technical regulations based on product requirements in terms of performance rather than design or descriptive characteristics.</u></b></i></p> <p>Also see Presidential Executive Order 13563 -- Improving Regulation and Regulatory Review</p>
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<p><i>longer qualify for retention shall be scheduled for abandonment as soon as practicable, but not later than 6 months after it has been determined there is <u>no prospect for reuse</u>. (No prospect is-- no chance)</i></p> <p>The NiSource Gas Standard uses “<i>cannot be determined</i>” instead of “<i>no prospect</i>” per reregulation.</p> <p>From experience, Columbia neither follows the NiSource Gas Standard, the PA version of the NiSource Gas standard nor the Pennsylvania PUC regulation.</p> <p>Annual reviews do not occur.</p>		<p>Columbia in handling their own property has legal and fiduciary responsibility to safeguard their own assets and certainly legal and fiduciary responsibility to not to assume ownership and destroy another’s property by illegal abandonment.</p> <p><u>“Cannot be determined” is different from “no prospect”. As a result many service lines and customer’s service lines are abandoned illegally resulting in substantial harm to property owners and rate payers.</u></p> <p>Good audits would not have missed this.</p> <p>Audits that are designed to protect the company would.</p> <p>So what are we dealing with ... deliberate – willful ignorance or condoning wrongdoing?</p>
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<p>Work orders for abandonment occur automatically from the NiSource computer system after 24 months. It issues a work order for an employee to remove the meter and another worker order is issued to destroy the service line – thereby deenergizing the customer’s service line as well. When property owner requests service they force the property owner to replace their customer’s service line because Columbia took abandonment authority from the property owner by deception.</p> <p>The auditors overlooked in Pennsylvania; CPA has a</p>		<p>In laws, trade agreements, and executive orders performance standards are preferred over design standards. For good reason Columbia unreasonably abandons service lines to the extent that service lines must be replaced</p>
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<p>"stub" service line, as defined in Account 380 Services. So when CPA does the wrongful abandonment, they abandon the stub service along with the customer's service line. The customer's service line is not subject to the PUC regulation nor the PA PUC regulations.</p> <p>Columbia claims they have the authority to abandon both – they do not, and this is fraud. This is something of which the PUC is supposed to be</p>	<p>CHAPTER 39 THEFT AND RELATED OFFENSES applies.<sup>29</sup></p> <p><i>§ 3922. Theft by deception.</i></p> <p><i>(a) Offense defined. --A person is guilty of theft if he intentionally obtains or withholds property of another by deception. A person <u>deceives if he intentionally:</u></i></p>	<p>within a year. The useful live of a service line is typically over fifty years. The auditors using a minimal one-year threshold hides the extent of the unreasonable improper abandonment 5495 service lines (excludes Indiana) X \$10,000 = <b>\$55 Million</b>. This material information of the Audit Committee, the PUC and others -- as it over charges ratepayers.</p> <p>When internal wrongdoing is discovered by a company, the Sentencing Guidelines treat companies differently based upon how the company addresses and corrects the issues rather than hides the issues.</p>
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<sup>29</sup> <https://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/18/00.039..HTM>

**"Property."** *Anything of value, including real estate, tangible and intangible personal property, contract rights,*

**"Deprive."** *(1) To withhold property of another permanently ... or with intent to restore only upon payment of reward or other compensation; or (2) to dispose of the property so as to make it unlikely that the owner will recover it."*

Abandonment is a form of disposition.

<p>protecting the public from in the PA Energy Consumer Bill of Rights.</p> <p>Appendix C of the audit report – New Service Line Install Subsequent to Abandonment. Here that audit show CPA had 563 abandoned service lines that had to be replaced <u>within a year</u> after their wrongful abandonment. The associated cost is unreasonable and – unallowable, about \$5.6 Million (563 X \$10,000).</p> <p>The theft by deception of customer’s lines (563 X \$2,000) is \$1.1 and in Pennsylvania that is a felony.</p>	<p><i>(1) <u>creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise;</u></i></p> <p><i>(2) prevents another from acquiring information which would affect his judgment of a transaction; or</i></p> <p><i>(3) fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship.</i></p>	<p>The auditors should have been more sensitive in that NiSource is still under a Deferred Prosecution Agreement from poor/ illegal performance of Columbia Gas of Massachusetts September 13, 2018.</p> <p>The extent of lack of control of service line abandonment is a material weakness and should have been identified as such.</p> <p>This was qualitatively material information for NiSource management, CPA Management, Board of Directors external auditors and the PUC.</p> <p>Instead of informing management and the Board that they maybe involved in felony thefts and mischarging cost --- the message</p>
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		was the NiSource was not abandoning service lines on a timely basis.
<p><b>Columbia Gas of Pennsylvania (A NiSource Company) <u>Standards for Customer Service Lines, Meters, and Service Regulators</u></b><sup>30</sup></p> <p>Also referred to as the <b>(Plumber's Guide)</b>.</p> <p>This document asserts, misrepresents deceptively, Columbia's authority over private property owners, and their plumbing contractors.</p>	<p>The Plumbers Guide is used to defraud private property owners and private contractors who work for private property owners.</p> <p>PA CHAPTER 39 THEFT AND RELATED OFFENSES applies. § 3922. Theft by deception.</p>	<p>It is not in the public interest for this utility to misrepresent the requirements of the U. S. Department of Transportation.</p>

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<sup>30</sup> <https://www.columbiagaspa.com/docs/librariesprovider14/contractors-and-plumbers/plumber-qualifications/plumber's-guide.pdf?sfvrsn=9>

<p>Columbia’s service and authority stop at the property line upon delivery. Columbia only has access to its meter – the property of which it owns.</p> <p>Columbia places higher requirements over workers on private property than their own workers on who work on Columbia’s distribution system.</p> <p>This document is not an official Gas Standard, nor policy and has not been approved by an identified Company official.</p> <p><i>Columbia requires “<b>The National Fuel Gas Code</b></i></p>	<p><i>PA Title 18 CHAPTER 49 FALSIFICATION AND INTIMIDATION 4912.<sup>32</sup> Impersonating a public servant. § 4912. Impersonating a public servant.</i></p>	<p>The fact this document has no company logo. It has a security classification of “PROPRIETARY”. It is not attributed to a company official. It is not a NiSource Gas Standard and the fictitious form number at the bottom are all indications this may not be an officially approved company</p>
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<sup>32</sup> PA TITLE 18 CRIMES AND OFFENSES <https://www.legis.state.pa.us/WU01/LI/LI/CT/PDF/18/18.PDF>

<p><b>(ANSI Z223.1/NFPA 54)</b></p> <p><b><i>shall be followed.</i></b>” This is wrong based upon the Pennsylvania Uniform Construction Code and local Ordinances the International Gas Fuel Standards applies.</p> <p>Columbia misrepresents and defines themselves as:</p> <p><u>“Authority Having Jurisdiction – Fire Chief, Local Code Official,</u></p> <p><b><i>Representative of the Gas Company, or others who are responsible for approving equipment, materials, installation, or procedures. Local codes, ordinances, and governmental regulations will govern when they are more stringent than the</i></b></p>	<p><b><i>A person commits a misdemeanor of the second degree if he <u>falsely pretends to hold a position in the public service with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.</u></i></b></p>	<p>document. But Columbia officials claim they use this document every day and operationally they enforce it.</p> <p>This document harmful to the integrity of the Commission. It is an illustration of what is wrong with NiSource and Columbia Gas of Pennsylvania. Most of all it harms ratepayers, property owners and plumbing professionals.</p> <p><b>How can so many be so wrong for so long?</b></p> <p>As an asset management expert the document is alarming – it shows this company is committed to wrongdoing rather than excellence.</p> <p>Columbia’s ceasing and desisting of this pretend authority and bogus</p>
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<p><i>requirements contained herein. When in doubt as to the proper procedure, consult your Gas Company and <b>other authorities</b> before proceeding with the work.”</i></p> <p>Code officials are duly authorized government officials and PA constitutionally can not delegate this authority to them.</p> <p>Columbia requires property owners to use a plumber to who has paid in money and time to get a bogus “Operator Qualification Card (Form C-3363)<sup>31</sup> – qualification</p>		<p>forms is a key performance indicator as to when Columbia starts to take compliance to laws and regulations seriously. It has been since 2016 that I have complained about this.</p> <p>The first communication with Columbia July 2016 they asserted the authority of this document. Page 23 --4.3 <i>ABANDONED, TEMPORARILY DISCONNECTED, OR PARTIALLY REPLACED*</i></p> <p><i>The following are additional requirements for abandoned, temporarily disconnected, or partially replaced customer owned service lines and meter setting installations.</i></p>
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<sup>31</sup> This document has been used apparently since 2004.

## APPENDIX G - Forms

### Form 1 – C-3363, “Operator Qualification Card”

Operator Qualification Card	
Please <b>PRINT CLEARLY</b> (Contractor must complete all information on top portion only)	
Name: _____	
Employer (or) Company Name: _____	
Qualifying Agency: _____	
Qualification ID# : <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
Job Address (Include City) _____	
<b>Operator Qualification Work Performed by Person Above</b>	
Service Line	<input type="radio"/> New Installation <input type="radio"/> Renewal <input type="radio"/> Repair / Other
Meter Setting	<input type="radio"/> New Installation <input type="radio"/> Renewal <input type="radio"/> Repair / Modification / Relocation
<small>I attest that all work performed and materials used fully comply with all Federal, State, and Local rules, regulations, codes and standards, and all applicable Columbia Gas Policies and Procedures, regulations, and standards, including, but not limited to: 49 CFR 192, Subpart N; Standards for Customer Service Lines, Meters, and Regulators; Tariffs; and Approved Materials for Gas Piping on Customer Owned Service Lines. I further attest that I am enrolled in a Drug and Alcohol plan in accordance with 49 CFR 199. I understand and agree that Columbia's acceptance of a Qualifier's written program shall in no way constitute an assumption or acceptance by Columbia Gas of responsibility for the installation or repair work performed by me, and I remain responsible for any work performed.</small>	
Signature: _____	Date: ____/____/____
<small>Note: Operator Qualification Cards can be printed from: <a href="http://www.columbiagasohio.com/business/plumbers">www.columbiagasohio.com/business/plumbers</a> or <a href="http://www.columbiagasohio.com/products_services/plumber_information.htm">www.columbiagasohio.com/products_services/plumber_information.htm</a></small>	
Form C – 3363 (11/04)	
<b>Information Below - For Columbia Use Only</b>	
PSID: <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	SEQ: <input type="text"/> <input type="text"/>
<input type="checkbox"/> <b>No Gas Service Established</b>	
(Columbia Action Required)	
<input type="radio"/> Curb valve - Leaks through or out; Requested stop change	
<input type="radio"/> Other _____	
(Contractor Requirement(s) that Failed)	
<input type="radio"/> <b>Qualifications not valid and/or OQ card completion unacceptable*</b>	
<input type="radio"/> <b>Unable to visual service line where required*</b>	
<input type="radio"/> <b>Service Line / Meter Setting installation violation(s) *</b>	
<input type="radio"/> <b>Service Line / Meter Setting failed pressure test(s) *</b>	
<input type="radio"/> Service Line / Meter Setting required clearances not met	
<input type="radio"/> Non OQ related problem(s)	
Name (print) _____	Date: ____/____/____
<small>*Note: Selections indicated in <b>BOLD</b> require card collection - Leave blank OQ replacement card</small>	
<input type="checkbox"/> <b>Established Gas Service</b>	
Name (print) _____	Date card picked up: ____/____/____

#### \*\*\*Important\*\*\*

#### Proper Completion Requirements!

- Card must have all contractor information (top portion) properly filled out. *Please note: You may enter data into each required field prior to printing.*
- Card must be legible.
- Card may not have the signature electronically duplicated.
- Card must be protected from the elements such as rain, frost, snow, etc.
- All applicable qualification work performed by an individual on a meter setting and/or service line must be marked. Blacken or make a distinctive checkmark in appropriate circle(s).
- All individuals, not just the crew leader, who are performing qualification work on a meter setting and/or service line, and who are not directly observed by a qualified individual, must leave a properly filled out Operator Qualification card.

#### WARNING!

**Fraudulent or misuse of cards may ultimately lead to an individual or company being banned from working on Customer owned facilities in Columbia Gas of Ohio's or Columbia Gas of Pennsylvania's service areas.**

<p><u>under federal regulations,</u></p> <p>required for installation, replacement or repair of service lines and/or meter settings.”</p> <p>This card is meant and is used to deceive and defraud private property owners and their plumbers.</p> <p>Department of Transportation authority over transportation, including pipelines, stops upon delivery.</p> <p>This document forces a private plumbing company or individual to make a false attestation. “I attest ...fully comply with all</p>	<p><b><u>49 CFR § 192.513<sup>33</sup> Test requirements for plastic</u></b></p>	<p><b><i>(a) Abandoned service lines shall not be reinstated – regardless of material.”</i></b></p> <p>The PA Energy Consumer Bill of Rights applies and property owners must be protected from Columbia’s wrongful acts.</p> <p><i>Consumers have (E)The right to be protected from unfair, deceptive, fraudulent, and anti-competitive practices of providers ... natural gas service.</i></p> <p><b>The results of this rate case must be the vehicle to protect consumers.</b></p> <p><b>Those 563 plus, home owners and customers who have been victims over the years of Columbia’s wrongdoing must be</b></p>
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<sup>33</sup> <https://www.law.cornell.edu/cfr/text/49/192.513>

<p><i>Federal, State and Local ...</i></p> <p><i>Including 49 CFR Subpart N</i></p> <p><i>...” [Qualification of Pipeline Personnel].</i></p> <p>Pipeline personnel are utility employees or contract workers. Through these misrepresentations, it forces and deceives these plumbers to pay and receive training and a blood test as if they were employees or contract workers working on utility owned pipelines.</p> <p>This practice is a restraint of trade.</p> <p>Property owners pay more for this type of interference by Columbia.</p>	<p><b><u>pipelines.</u></b> (a) <u>Each segment of a plastic pipeline must be tested in accordance with this section.</u></p> <p>(b) <b>The test procedure must insure discovery of all potentially hazardous leaks in the segment being tested.</b></p> <p>(c) <b>The test pressure must be at least 150 percent of the maximum operating pressure or 50 p.s.i. (345 kPa) gage, whichever is greater.</b></p>	<p><b>made whole prior to any rate increase.</b></p> <p>49 CFR 49 513 is part of the 49 CFR Part 192 - TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS</p> <p>After all the problems NiSource and Columbia Gas had with violations</p>
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<p>It is in the public interest, as a supervisor, for the Commission to stop Columbia from misrepresenting private property owner's requirements.</p> <p><b>The Plumbers Guide</b> requires customer's service lines to be pressure tested at <b>90 P.S.I.G.</b> Federal regulations at Section 192.513 is at 55 PSIG. On private property the standard is at 3 PSIG.</p> <p>90 P.S.I.G is destructive testing, is dangerous to people and harmful to property.</p>		<p>of Pipeline Safety Act with over pressurization of pipelines with operations in Massachusetts and Washington County why these internal procedures have not been fixed is incomprehensible.</p> <p>The Commission should not consider additional rates for Columbia's good management.</p>
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<p>Columbia does not comply with the requirement to maintain its distribution in conformity with industry standards.</p> <p>Those standards would include ISO 55000 Asset Management, ASTM E2279 ... Guiding Principles ... Asset Management; ISO 9000, Quality Management, ISO 31000 Risk Management...</p>	<p><i>Title 66 § 2205. Duties of natural gas distribution companies.</i></p> <p><i>(a) Integrity of distribution system. --</i></p> <p><i>(1) Each natural gas distribution company <u>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.</u></i></p>	<p>Built-in and careful compliance to standards would have greatly improved the operations of Columbia Gas.</p> <p>The use of standards improves operations with improved internal controls.</p> <p>Working within standards is an asset – working outside of standards can destroy a company.</p> <p>That is what happened in Massachusetts.</p> <p>NiSource was forced to adopt ANSI/API 1173 - Pipeline Safety Management Systems. API 1173 references and is partially based upon ISO 55000 Asset Management.</p> <p>Adopting API 1173 is good, but it appears to have taken excessively</p>
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		<p>long to incorporate in practice.</p> <p>There is no good reason to <i>slow roll</i> this obligation.</p>
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**Conclusion:**

**This table chart never goes away – This chart data of which NiSource and Columbia Gas of Pennsylvania provided is a reflection and a product of poor internal controls that result in unjust and unreasonable rates ---- “any such rate or charge that is not just and reasonable is declared to be unlawful.” (15 U.S.C. COMMERCE AND TRADE § 717c - Rates and charges and PA Title 66 § 1301).** This proposed annual increase of Columbia Gas of Pennsylvania rates of \$98,300,000 must be rejected in its entirety as it does not serve in the public interest. This rate request and existing rates are unjust, unreasonable, and unlawful.

Rates should be decreased to the extent they become lawful, reflecting due consideration all the strands of public interest. Individual customers and property owners must receive restitution for harm caused by Columbia’s actions as these are some of the strands of public interest. NiSource and Columbia do not change behavior unless forced to, they seem incorrigible; therefore, I suggest a team of experts reporting to the PUC but paid for by Columbia Gas to oversee their operations to supervise this company’s correction efforts of installing adequate internal controls into their operations. Otherwise, take the path of Massachusetts. We need to resolve the crisis of trust without delay.

	~ No. of Customers (In 000)	Miles of Pipe	Calculated Miles of pipe per customer	Miles of Bare Steel and Cast Iron	Rate Base (\$ 000,000)	Calculated Rate Base Per Customer \$	
NIPSCO	840	17500	.020	23*	1700	*2024	
COH	1500	20200	.013	2000	3200	2133	
CKY	137	2600	.019	2600	327	2387	
CVA	274	5300	.019	140**	850	3102	
CMD	34	660	.018	50	149	4382	
SUB TOL	2785				6226	2236	Ave
CPA	433	7700	.018	1200	2400	** 5545	
	3548				8626		

## RELIEF

I respectfully request that the Commission take the following actions:

- A. Investigate concerns and validate Columbia's full and earnest investigation of the contents of my complaint.
- B. Rule that art of a rate increase or decrease is provided based on reliable assurances of '**actual legitimate cost**' of property owned by Columbia Gas of Pennsylvania. The level of assurance must be provided by competent independent auditors and must comply with the definition provided in [2 CFR § 200.7](#).
- C. Rule that a determination of just and reasonable rates can not begin until there is reasonable assurance Columbia's financial performance is based upon '**actual legitimate cost**'. The data from themselves and the parent company show the rate base – thus rates are not reasonable. This chart on its own is substantial evidence of that fact.
- D. Reconsider and rule in the letter and spirit and limitations of the Hope decision as provided in this Complaint; (FEDERAL POWER COMMISSION et al. v. HOPE NATURAL GAS CO. CITY OF CLEVELAND v.



SAME Decided Jan. 3, 1944, <https://www.law.cornell.edu/supremecourt/text/320/591>) particularly Paragraph 54 [T]he Commission's rate ORDERS **must** be founded on **due consideration of all the elements of the public interest** which the production and distribution of natural gas involve just because it is natural gas. These elements are reflected in the Natural Gas Act if that Act be applied as an entirety. See, for instance, §§ 4(a)(b)(c)(d), 6, and 11, 15 U.S.C. §§ 717c(a)(b)(c)(d), 717e, and 717j, 15 U.S.C.A. §§ 717c(a—d), 717e, 717j. 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.**

**Hope Paragraph 6** 'No greater injustice to consumers could be done than to allow items [such] as operating expenses and at a later date include them in the rate base, thereby placing multiple charges upon the consumers.' *Id.*, 44 P.U.R.,N.S., at page 12.

Confirm the primary mission of the Pennsylvania Public Utility Commission and the purpose of this rate case is not to balance the needs of consumers and utilities, but to provide due consideration of all the elements of the public interest including current long term social and economic needs and costs.

- E. Rule that Columbia Gas of Pennsylvania must use the COSO Integrated Internal Control Framework as asserted in the NiSource 10-K and applicable parts of the GAO Green Book. Also rule that Columbia Gas has or has not complied with this self-assertion by management, and that material weaknesses, significant deficiencies, and deficiencies must be disclosed to the Commission and others and be corrected.

- F. Rule the Commission is or is not using applicable parts of the GAO Green Book on Internal Controls as required by Pennsylvania Management Directive of the Governor's Office -- Standards for Internal Controls in Commonwealth Agencies 325.12 Amended (2018).
- G. Rule that the Commission and Columbia Gas must use generally accepted audits as applicable. Generally accepted audits are expressed in the GAO Yellow Book. Management Directive of the Governor's Office -- Performance of Audit Responsibilities 325.3 Amended (2011)
- H. Rule that the Commission and Columbia Gas are subject to the requirement as applicable to 2 C.F.R. § 200: e.g. § 200.61 Internal controls; § 200.303 Internal controls; § 200.404 Reasonable costs; § 200.110 Effective/applicability date; 200.434 Contributions and donations; § 200.504 Frequency of audits; § 200.514 Scope of audit; § 200.6 Auditee; and other applicable sections of this Federal regulation.
- I. Rule that annual audits must include an assurance statement and identification of and material weaknesses, significant deficiencies and deficiencies, and a corrective action plan with dates of progress – if any.
- J. Rule that Columbia must correct its accounting to the extent that rates and charges are just and reasonable and in conformance with integrated internal controls and independent and competent audits. Additional details are included in the body of this complaint.
- K. Rule that Columbia Gas must satisfy the corrective actions identified by Federal Officials and NiSource Management promises to correct safety deficiencies in records, processes and facilities as a result of the disaster with Columbia Gas of Massachusetts and provide the Commission and the parties of this rate case, that items identified by Federal officials have or have not been corrected at Columbia Gas of Pennsylvania's facilities.
- L. Rule that Columbia Gas must recognize boundaries and rights as provided in private property deeds. The authority of Columbia gas must be consistent with laws, regulations, and legal portions of

Columbia's Tariff. In addition, Columbia does not have the right to trespass, interfere, replace, or maintain or abandon private property -- Columbia does have a right to reasonable access to its own property.

- M. Rule that Columbia must recognize Pennsylvania Utility law Title 66 section 102 regarding basic definitions and concepts such as: facilities (owned by a public utility – tangible and intangible. Private property owners also have tangible and intangible property), service line (always owned by a public utility), customer's service line (never owned by a public utility, Rate Base (property of a public utility which is used and useful in the public service – private property is not used in public service). The Commission nor Columbia have the authority or jurisdiction to change these definitions and must apply them as enacted.
- N. Recognize safety concerns and order corrections that have been observed that provide an undue risk to public safety. These include: placing meters in unsafe locations such as under a window so there is no safe access to shut off the gas in an emergency; not installing curb valves on service lines – in an emergency, there may not be a curb valve with an owner's name thereby putting first responders and others at risk in an emergency; not complying with industry standards in service line sizes – thereby insufficient energy is supplied to the home making the service to the home incapable of using the latest and most efficient appliances; installing service lines without quality assurance processes and documented assurance of conformance with requirements.
- O. Order the withdrawal of the Plumbers Guide as it declares untruths and harms property owners and private plumbing contractors. Order that Columbia come clean with individuals who have been harmed and encourage Columbia to provide restitution to those harmed. Columbia has no right to misrepresent its authority.

- P. Deny an increase in the Company's rates that cannot be fully justified by the Company or that is unjust, unreasonable, unduly discriminatory, or otherwise inconsistent with the Public Utility Code, sound ratemaking principles, and public policy;
- Q. Determine the justness and reasonableness of the Company's current and proposed rates; and
- R. Grant such other relief that the Commission deems necessary.
- S. I file this Formal Complaint to ensure that the Commission will fully and fairly deal and adjudicate issues pertaining to whether the Company's existing and proposed rates and internal operations are unjust, unreasonable, unduly discriminatory, or otherwise unlawful.

**RCC May 24, 2021**