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June 15, 2021

Via Electronic Mail Only

Rosemary Chiavetta, Secretary

Pennsylvania Public Utility Commission

PO Box 3265

Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission

v.

Columbia Gas of Pennsylvania, Inc.

Docket No. R-2021-3024296

Dear Secretary Chiavetta:

Attached is my motion to the Pennsylvania Public Utility Commission to replace Judge Hoyer with another presiding officer that will appear to be more within the Canon for Judges in Pennsylvania. This is in the best interest of the public, the participants of this rate case, the Commission, Judge Hoyer, and the reputation of the Commonwealth of Pennsylvania.

Please provide this motion to the Commission for their consideration and determination.

My action here has been carefully considered; the current presiding officer cannot lead to the highest level of public confidence. In this case, he is impaired in several areas. Regardless of the outcome and the quality of the proceeding, the public will not be sufficiently satisfied they are and have been treated and served fairly.

If you have any questions, please call me. By copy of this letter, copies of this motion have been served upon all parties. A certificate of service showing service on all parties has been filed with your office as required by 52 Pa. Code §5.341(b).

(Note: This is a resubmittal of eFile document 2181386 putting these documents in the proper order.)

Sincerely,



Richard C. Culbertson

Richard.c.culbertson@Gmail.com

Enclosures:

cc: Certificate of Service. eFiling Confirmation Number

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et al.	:	R-2021-3024296
	:	
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	

MOTION

On May 24, 2021, Richard C Culbertson Filed a Formal Complaint in Columbia Gas of Pennsylvania’s Rate Case R-2021-3024296 whereby Columbia is requesting an annual revenue increase of \$98,300,000. The presiding officer assigned is the honorable Mark A. Hoyer Deputy Chief Administrative Law Judge.

I, Richard C Culbertson (pro se) make a motion for the Pennsylvania Public Utilities Commission to replace Judge Hoyer with another administrative law judge that will appear to be more within the Canon for Judges in Pennsylvania.

**The Public’s Expectation and Pennsylvania’s Requirements for Judges
PA Title 207 Chapter 33. Subchapter A. CANONS**

Canon

1. A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.
2. A judge shall perform the duties of judicial office impartially, competently, and diligently.

Preamble

(1) This Code shall constitute the “canon of . . . judicial ethics” referenced in Article V, Section 17(b) of the Pennsylvania Constitution, which states, in pertinent part: “Justices

and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the (Pennsylvania) Supreme Court.

(2) An independent, fair, honorable and impartial judiciary is indispensable to our system of justice. The Pennsylvania legal system is founded upon the principle that an independent, fair, impartial, and competent judiciary, composed of persons of integrity, will interpret and apply the law that governs our society. The judiciary consequently plays a fundamental role in ensuring the principles of justice and the rule of law. The rules contained in this Code necessarily require judges, individually and collectively, to treat and honor the judicial office as a public trust, striving to preserve and enhance legitimacy and confidence in the legal system.

(3) Judges should uphold the dignity of judicial office at all times, avoiding both impropriety and the appearance of impropriety in their professional and personal lives. They should at all times conduct themselves in a manner that garners the highest level of public confidence in their independence, fairness, impartiality, integrity, and competence.”

PA Title 66 § 319. Code of ethics.

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

- (1) Avoid impropriety and the appearance of impropriety in all activities.
- (2) Perform all duties impartially and diligently.

Discussion

The public believes that a PUC administrative law judge is bound by the PA Title 207 Chapter 33. Subchapter A. CANONS and PA Title 66 § 319. Code of ethics. “An independent, fair, honorable and impartial judiciary is indispensable to our system of justice.” Each element is indispensable. Having Judge Hoyer as the presiding judge will not garner “the highest level of public confidence in their independence, fairness, impartiality, integrity, and competence.”

Reasons for the Motion

Judge Hoyer does not meet the standard of independence. Judge Hoyer is part of the solid line organizational chart of the PUC. Judge Hoyer reports to Charles Rainey, Chief Administrative Law Judge who reports to Seth Mendelsohn, Executive Director -- who reports to the five Commissioners.

Judge Hoyer may not be able to fulfill his duty as an employee of the PUC and an independent Judge simultaneously.

The last time Columbia requested a rate increase was in 2020 with PUC Docket R-2020-3018835. Under this rate case, Columbia requested an annual rate increase of \$100,400,000. Administrative Law Judge Katrina L. Dunderdale recommended that the proposed revenue increase be denied in its entirety. The Commission rejected Judge Dunderdale's recommendation and awarded Columbia on February 19, 2021, based upon a press release, a rate increase of \$63,500,000. This ruling was approved outside of the view of the public on a notional vote. Notional votes do not count as official votes. A notional vote has as much authority as an ALJ recommendation. Regardless of the process, the notional vote counted before the public because the PUC voiced their decision with the press release before the actual vote before the public was taken.

An impartial and independent judge may have to provide an opinion that the notional vote on the last Columbia rate case was illegitimate, and that ruling and the interpretation of the *FEDERAL POWER COMMISSION et al. v. HOPE NATURAL GAS CO.* decision does not apply to this rate case.

Administrative Law Judge Katrina L. Dunderdale directly reports to Judge Hoyer.

Who will Judge Hoyer be influenced by – the Commission, Judge Dunderdale, his past decisions, or the law? Putting Judge Hoyer in this position as the presiding officer, in this case, is not fair to Judge Hoyer, Judge Dunderdale, and the public. Judge Hoyer, as the presiding will not garner “the highest level of public confidence.” We know now, this will not pass the newspaper test and the public will have low confidence in the result. It will harm the reputation of the Pennsylvania Public Utilities Commission

Secondly, I, Richard C. Culbertson, filed a Formal Complaint against Columbia Gas of Pennsylvania on May 8, 2017, Richard C. Culbertson, Complainant v. Columbia Gas of Pennsylvania, Inc. Docket No. F-2017-2605797. This complaint covered a wide range of issues and is now available publicly on the PUC’s open records. Judge Hoyer was the presiding Administrative Law Judge. His treatment of me did not appear impartial. Columbia mostly

refused discovery. About seven times I asked Judge Hoyer to compel Columbia to provide the requested information and the same amount of times Judge Hoyer sided with Columbia. The Commission still has not dispositioned my complaint against Columbia's actions revealed to me on July 7, 2016. I do not believe Judge Hoyer treated me fairly through that proceeding, I do not believe the Commission has treated me fairly, based upon my rights provided in the Pennsylvania Constitution. Now my Formal Complaint against Columbia has been outstanding for over four years. Life is short and at almost 74, I do not have many four years left.

Pennsylvania Constitution § 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 shall have remedy by due course of law, and right and justice administered without sale, denial or delay."

Thirdly, I believe there was due process and due diligence shortcomings. PUC Regulations "52 § 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." There is no substantial evidence that Columbia conducted "full and prompt investigations". One of the duties of the PUC is to enforce its own regulations. Title 66 Subchapter B. COMMISSION POWERS, DUTIES, § 501. General powers. (a) ... it shall be its duty to enforce, ... its regulations ... and shall have the power to rescind or modify any such regulations or orders." Requiring impartial, complete, and reliable investigations, is important for due process. During the investigative process, Columbia can discover its weaknesses and deficiencies and make necessary corrections to its operations and treatment of customers and property owners. Columbia did not comply with the PUC regulations 52 § 59.13. Complaints and Judge Hoyer did not enforce its requirements.

Complaints include Formal Complaints issued are part of a rate case. Those investigations must occur as well.

It is in the public interest to replace Judge Hoyer with another presiding officer of this rate case ... that provides "the highest level of public confidence in their independence, fairness, impartiality, integrity, and competence."

Respectfully submitted.

Richard C. Culbertson
1430 Bower Hill Road
Pittsburgh, PA 15243
Date June 11, 2021

eFiling Confirmation Number

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2021-3024296
	:	
Columbia Gas of Pennsylvania, Inc.	:	

I hereby certify that I have this day served a true copy of the Motion to replace the current presiding officer in this rate case to the participants below per the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below: Dated this 15th day of June 2021.

SERVICE BY E-MAIL ONLY

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Dated: June 15, 2021

eFiling Confirmation Number