

Richard C. Culbertson
1430 Bower Hill Road
Pittsburgh, PA 15243
(609) 410-0108

Richard.c.culbertson@Gmail.com

July 15, 2021

Erika L. McLain, Esquire
Bureau of Investigation & Enforcement
Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission

v.

Columbia Gas of Pennsylvania, Inc.

Docket No. R-2021-3024296

Interrogatories Addressed to Erika L. McLain, Esquire

Dear Ms. McLain

Attached with this letter are my interrogatories addressed to you as a party to this rate case.

Please let me know if you have any questions. I believe your responses are relevant and material to this rate case, as we seek just and reasonable rates for the customers of Columbia Gas of Pennsylvania.

Thank you for your responses.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Culbertson', with a stylized flourish at the end.

Richard C. Culbertson

Attachments:

Certificate of Service.

Ms. Rosemary Chiavetta, Secretary Pennsylvania Public Utilities Commission efile

**Pennsylvania Public Utility Commission
et. al**

v.

Columbia Gas of Pennsylvania, Inc.

Docket No. R-2021-3024296

Interrogatories of Richard C. Culbertson

**To Erica L. McLain, Prosecutor, Bureau of
Investigation and Enforcement of the Pennsylvania
Public Utility Commission**

Set I

**These interrogatories pertain to one or more
elements of Internal Controls of the Pennsylvania
Public Utility Commission -- Effective and Efficient
Operations – Reliable Reporting -- Compliance with
Laws, Regulations, and Standards**

Introduction: Pennsylvania Public Utility Law Title 66 is primarily about relationships – the relationships between Columbia Gas of Pennsylvania, the Pennsylvania Public Utilities Commission, and customers. Each has a role and each has legal and ethical responsibilities. This set focuses on the role and acts done or omitted by the Pennsylvania Public Utilities Commission. Customers cannot be treated fairly and as promised unless the relationship between the Commission and utility functions as required. Weaknesses and deficiencies are harmful to the relationship collectively and individually. In the long run, individual customers are harmed the most. The public and the participants of this rate case and customers are entitled to understand the workings of the Pennsylvania Public Utilities Commission so to better understand the workings of Columbia Gas of Pennsylvania and to achieve just and reasonable rates for customers.

Ms. McLain, this set of interrogatories is addressed to you as a participant and representative of the Pennsylvania Public Utility Commission in this rate case. Questions should be answered by you or to the highest responsible level who is authorized to speak for the Commission.

1. Ms. McLain, please describe your job. Are you primarily an advocate of the Pennsylvania Public Utility Commission, the customers of public utilities, public utilities, or are you independent and can be an advocate or oppose any organization you see fit? Please explain but include to what extent you are permitted to formally or informally criticize the PUC. Also if you hear something in a rate case that appears to be counter to laws and regulations are you in a position to initiate an investigation.

2. Question/ Data request. On Apr. 23, 1968, Proposition 4 was passed by the electorate of Pennsylvania and added to the Pennsylvania Constitution ARTICLE VIII.
§ 10. *Audit.*

“The financial affairs of any entity funded or financially aided by the Commonwealth, and all departments, boards, commissions, agencies, instrumentalities, authorities and institutions of the Commonwealth, shall be subject to audits made in accordance with generally accepted auditing standards.

Any Commonwealth officer whose approval is necessary for any transaction relative to the financial affairs of the Commonwealth shall not be charged with the function of auditing that transaction after its occurrence.”

The Pennsylvania Public Utility Commission is subject to Pennsylvania Constitution § 10. *Audit. Correct? If not, please explain.*

3. Question/ Data request. The Pennsylvania Public Utilities Commission is an independent agency that has the responsibility to supervise public utilities. **Correct? If not, please explain.**
4. Question/ Data request. The Pennsylvania Public Utility Commission may be an independent agency but it is not a government sovereign entity – it is still part of the Commonwealth government that uses the common infrastructure and management systems. **Correct? If not, please explain.**

For example Management Directive 105.1 Allocation and Allotment of Funds

https://www.oa.pa.gov/Policies/md/Documents/105_1.pdf

“Funds are to be allocated and allotted as shown herein. This directive applies to all agencies that utilize Commonwealth accounting systems.”

Management Directive 105.1 is applicable to the Commission.

5. Question/ Data request. Management Directive 325.3 Amended, Performance of Audit Responsibilities, January 10, 2011, By Direction of Mary A. Soderberg, Secretary of the Budget
https://www.oa.pa.gov/Policies/md/Documents/325_3.pdf
- 6.

“This directive establishes policy, responsibilities, and procedures for the performance of audits and nonaudit services for commonwealth agencies.”

“c. Policy and responsibilities contained herein apply to audits performed under an agency's direction...”

“3. OBJECTIVE. To ensure Agency Audit Organizations, Comptroller Operations Audit Organizations, and other qualified auditors understand the policy, responsibilities, and procedures established for performing audits and nonaudit services.”

5. POLICY.

a. Audits of commonwealth organizations, programs, activities, and functions are to be performed by qualified auditors, and must be performed in accordance with generally accepted government auditing standards (GAGAS) [GAO Yellow Book], promulgated by the United States Government Accountability Office in its publication, Government Auditing Standards, except where it is determined to be more cost effective and operationally effective to have an audit performed in accordance with generally accepted auditing standards promulgated by the American Institute of Certified Public Accountants.

Management Directive 325.3 Amended, is applicable to the audits performed under the direction of the Pennsylvania Public Utility Commission. **Correct? If not, please explain.**

7. Question/ Data request. Please provide the internal policy or regulation of the PUC that implements Management Directive 325.3 Performance of Audit Responsibilities.
“This directive establishes policy, responsibilities, and procedures for implementing effective internal control systems within commonwealth agencies.”
8. Question/ Data request. Management Directive 325.12, Standards for Internal Controls in Commonwealth Agencies May 15, 2018, By Direction of Randy C. Albright, Secretary of the Budget. This Management Directive is also applicable to the Commission. **Correct? Please explain, if not.**
9. Please provide implementing internal policy or regulations that implement Management Directive 325.12 Standards for Internal Controls...
10. Management Directive 325.9 December 23, 2014 Processing Audits of Federal Pass-Through Funds By Direction of Charles B. Zogby, Secretary of the Budget.
“This directive establishes policy, responsibilities, and procedures for processing subrecipient single audit reports. This amendment updates the audit clause used in agreements between commonwealth agencies and subrecipients; and other applicable portions of the directive as a result of the codification of federal award audit requirements in 2 CFR Part 200 Subpart F – Audit Requirements ...”
https://www.oa.pa.gov/Policies/md/Documents/325_9.pdf
This Management Directive applies to the PUC directly or indirectly or explicitly or implicitly as part as a result of receiving Federal grant money. **Correct? If not, please explain.**

11. **2 CFR Part 200, Subpart E—COST PRINCIPLES** Applies to the Commission starting with §200.400 Policy guide. **Correct? If not, please explain.**
12. “2 CFR § 200.324 - Contract cost and price. (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting **must not be used.**” **41 U.S.C. Sec. 3905. Cost contracts (a) Cost-Plus-A-Percentage-Of-Cost Contracts Disallowed. --The cost- plus-a-percentage-of-cost system of contracting shall not be used. This law and regulations applies to the Pennsylvania Public Utility Commission in setting rates? If not, please explain.**
13. Title 66 § 523. Performance factor consideration. This law does not include a cost plus percentage of cost type of arrangement. **Correct? If not, please explain.**
14. Generally traditional rate-making uses a form of cost plus percentage of cost type of arrangement where profits are tied to spending rather than performance. **If not, please explain.**
15. 2 CFR§200.404 Reasonable costs. https://www.ecfr.gov/cgi-bin/text-idx?SID=8da0e85617057fb16c627e28b693eb50&mc=true&node=se2.1.200_1404&rgn=div8 and 18 CFR Part 201 - UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT -- *General Instructions E. All amounts included in the accounts prescribed herein for gas plant and operating expenses shall be just and reasonable and any payments or accruals by the utility in excess of just and reasonable charges shall be included in account 426.5, Other Deductions.* <https://www.law.cornell.edu/cfr/text/18/part-201>
Here reasonable/unreasonable costs by an organization are consistent between 2 CFR and 18 CFR. **Correct? If not, please explain.**

For example 2 CFR §200.434 Contributions and donations. (a) *Costs of contributions and donations, including cash, property, and services, from the non-Federal entity to other entities, are unallowable.* In FERC account 426.1 *Donations. This account shall include all payments or donations for charitable, social or community welfare purposes.* FERC Accounts 426.5 and 426.1 are both below the line and are unallowable for recovery purposes as plant in service.
16. “2 CFR §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. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally funded. In determining the reasonableness of a given cost, consideration must be given to: (c) Market prices for comparable goods or services for the geographic area.” This also applies in rate

cases where a given utility is outside of a competitive range.

The concept of and guidance of the competitive range is presented in the Federal Acquisition Regulations 15.306

In that Columbia Gas of Pennsylvania rate base per customer is 2.7 times that of the NiSource gas utility in Indiana and 2.6 times the gas utility in Ohio ... in a competitive market, this disparity puts Columbia Gas of Pennsylvania outside of the competitive range in a rate case. Columbia Gas of Pennsylvania's rate base per customer appears unreasonable, thus rates are also unreasonable. **Correct? If not, please explain.**

17. In the body of PA Title 66 PUBLIC UTILITIES includes keywords: The term **prudent** is used 44 times primarily related to cost, **fair** 32; **just** 216; **reasonable** 258; **effective** 271; **efficient** 28; **safe** 104; **comply** 50; **conform** 25; **obey** 9; **audit** 68, **diligent or diligence** 3; **fidelity** 1, **observe** 3; **penalty** 25; **must** 86; **shall** 2,210, **should** 27; **burden of proof** 29, trust 0; and **balance between** 0. These terms used in Title 66 provide indicators of the intent and priorities of law that generally apply to public utilities and the Commission. **Correct? If not, please explain.**

18. The Pennsylvania Constitution, as a result of a proposition in 1968 requires audits -- generally accepted audits, (Pennsylvania Constitution ARTICLE VIII. § 10. Audits) Management Directive 325.3 requires generally accepted audits be performed in accordance with the GAO Yellow Book. June 2020 the PUC's Bureau of Audits issued a Management and Performance Audit of Columbia Gas of Pennsylvania but was not released to the public until after the Public Input Hearing on July 8, 2020. <https://www.puc.pa.gov/pcdocs/1670369.pdf>

Was this audit performed in accordance with the PA Constitution and Management Directive 325? The audit does not claim to be. If the answer is yes, please provide where in this audit, it claims that it has been performed in accordance with generally accepted auditing standards.

19. Pennsylvania Constitution ARTICLE VIII. § 10. Audits, "shall be subject to audits made in accordance with generally accepted auditing standards." Management Directive 325.3 requires generally accepted audits performed in accordance with the GAO Yellow Book. June 2020 the PUC's Bureau of Audits issued a Management and Performance Audit of Columbia Gas of Pennsylvania but was not released to the public until after the Public Input Hearing on July 8, 2020. <https://www.puc.pa.gov/pcdocs/1670369.pdf>

This document does not provide to the Commission, Columbia Gas of Pennsylvania, its customers, investors, or the public any form of "assurance" of effective internal controls. **Correct? If not, please explain.**

20. June 2020 the PUC's Bureau of Audits issued a Management and Performance Audit of Columbia Gas of Pennsylvania <https://www.puc.pa.gov/pcdocs/1670369.pdf> Did identify "NiSource Corporate Services Company has internal control deficiencies within certain accounting processes." Page 27. The PUC auditors explained, "*Internal control ensures operational effectiveness and efficiency; reliable financial reporting; and, compliance with laws, regulations, and policies.*" **Correct? If not, please explain.**

21. The prior audit of Columbia by the PUC Bureau of Audits was issued June 2013, Docket No. D-20 12-2290672 and it too does not provide reasonable assurance of internal controls. **Correct? If not, please explain.**

The publicly available document is provided below.

http://www.oca.state.pa.us/industry/natural_gas/documents/columbia/2015%20base%20rate%20case/Columbia_Gas_Rate_Case_R-2015-2468056/10.%20Standard%20Filing%20Requirements%20-%20Exhibits%2013%20-%20Volume%204%20of%2010.pdf

22. In a rate case, it is not assumed the participants have or will reach some sort of reasonable assurance of Columbia's internal controls as a GAGAS qualified auditor would. **Correct? If not, please explain.**

23. It is the responsibility of the utility to show, as part of their burden of proof any independent audits or investigations that provide assurance or lack of assurance. **Correct? If not, please explain.**

24. A lack of a reasonable assurance evaluation in audits, assessments, inspections does not mean it should be assumed there is reasonable assurance. **Correct? If not, please explain.**

25. If the Pennsylvania Oath of Office requires individuals of the PUC to faithfully support, obey and defend the Constitution of Pennsylvania and Article VIII Section 10 requires the use of generally accepted audits standards and Management Directive 325.3 requires the Commission's audits must be in accordance with the GAO Yellow Book and these audits did not occur to the extent of reaching reasonable assurance of internal controls, then those responsible fell short of those obligations. **Correct? If not, please explain.**

26. Reliably just and reasonable rates of Columbia Gas of Pennsylvania cannot be reasonably determined if generally accepted audit standards have not been followed by the PUC nor provided by Columbia Gas in other external audits to the same GAGAS. **Correct? If not, please explain.**
27. Due diligence in rate cases is impaired without compliance with required internal controls and audits standards. **Correct? If not, please explain.**
28. Proceedings in a rate case are not the same as an audit conducted in accordance with GAGAS and do not pretend to be as reliable, in any event, decisions are made by the PUC in rate cases with or without audits. **Correct? If not, please explain.**
29. Industry surveys are not nearly as reliable for decision-making purposes in a rate case as audits performed in accordance with GAGAS. **Correct? If not, please explain.**
30. **Article VI § 3. Oath of office.** *Senators, Representatives, and all judicial, State and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation before a person authorized to administer oaths. "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity."* Leaders of the PA PUC recite this oath of office before entering service of the PUC. **Correct? If not, please explain.**
31. Title 66 § 516. Audits of certain utilities. Does not justify omitting the required audits per the Pennsylvania Constitution, Management Directives, and 2 CFR 200 (regarding Federal grants). **Correct? If not, please explain.**
32. In my Formal Complaint, I include the following table from authoritative sources—NiSource and the ALJ's recommendation report of December 4, 2020, on Columbia's previous rate case. <https://investors.nisource.com/company-information/default.aspx>

	~ 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		

Columbia Gas of Pennsylvania (CPA) rate base per customer is 2.7 times that of Indiana and 2.6 times that of Ohio. Could it be, since the PUC has not conducted audits in a timely manner and to the proper standard, this may have been a root cause for these disparities? But we do not know. **Correct? If not, please explain.**

33. What assurance can the PUC provide to Columbia's customers and investors that the rate base and rates are just and reasonable in that audits have not been performed as required?

34. Was due process used to arrive at the current rates using due diligence and due professional care? **If the answer is Yes, please explain.**

35. Would it be reasonable for knowledgeable customers not to feel comfortable with the current rate-making process?

Thank you,

Richard C Culbertson



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 Set I Interrogatories addressed Erika L. McLain, Esquire a party of record in this proceeding in accordance with 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 July 2021.

SERVICE BY E-MAIL ONLY

Erika L. McLain, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17109-1923

Michael W. Hassell, Esquire
Lindsay A. Berkstresser, Esquire
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601

Amy E. Hirakis, Esquire
NiSource Corporate Services Co.
800 North Third Street
Suite 204
Harrisburg, PA 17102

Theodore J. Gallagher, Esquire
Columbia Gas of Pennsylvania, Inc.
121 Champion Way
Suite 100
Canonsburg, PA 15317

John W. Sweet, Esquire
Ria M. Pereira, Esquire
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Joseph L. Vullo, Esquire
PA Weatherization Providers Task Force, Inc.
1460 Wyoming Avenue
Forty Fort, PA 18704

Todd S. Stewart, Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101

Charis Mincavage, Esquire
Kenneth R. Stark, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Richard C. Culbertson

1430 Bower Hill Road

Pittsburgh, PA 15243

/s/ Harrison W. Breitman
Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
E-Mail: HBreitman@paoca.org

Laura J. Antinucci
Assistant Consumer Advocate
PA Attorney I.D. # 327217
E-Mail: LAntinucci@paoca.org

Darryl A. Lawrence
Senior Assistant Consumer Advocate
AdvocatePA Attorney I.D. # 93682
E-Mail: DLawrence@paoca.org

Thomas J. Sniscak, Esquire
Whitney E. Snyder, Esquire
Bryce R. Beard, Esquire
Hawke McKeon & Sniscak, LLP
100 North Tenth Street
Harrisburg, PA 17101

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138
E-Mail: BSheridan@paoca.org

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAappleby@paoca.org

Counsel for:
Office of Consumer
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-
1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: July 15, 2021