

---

Lindsay A. Berkstresser  
Associate

lberkstresser@postschell.com  
717-612-6021 Direct  
717-731-1977 Direct Fax  
File #: 182466

July 22, 2021

***VIA ELECTRONIC FILING***

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

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

---

Dear Secretary Chiavetta:

Attached please find the Answer of Columbia Gas of Pennsylvania, Inc. to the Motion to Compel of Richard Culbertson—Set V, Questions 3-5, 9, 11-15, 17-24, 26, and 29-50 in the above-referenced proceeding. Copies will be provided per the Certificate of Service.

Respectfully submitted,



Lindsay A. Berkstresser

LAB/kl  
Attachment

cc: Honorable Mark A. Hoyer  
Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

---

**ANSWER OF COLUMBIA GAS OF PENNSYLVANIA, INC.  
TO THE MOTION TO COMPEL OF RICHARD C. CULBERTSON – SET V,  
QUESTIONS 3-5, 9, 11-15, 17-24, 26, AND 29-50**

---

Columbia Gas of Pennsylvania, Inc. (“Columbia”) hereby submits this Answer to the Motion to Compel of Richard C. Culbertson regarding Set V, Questions 3-5, 9, 11-15, 17-24, 26 and 29-50, pursuant to 52 Pa. Code § 5.342(g)(1). As explained below, Mr. Culbertson’s Motion to Compel should be denied because Set V, Questions 3-5, 9, 11-15, 17-22, 24, 26 and 29-50, are vague, untimely and unreasonable, and because they seek information that is (1) irrelevant and unlikely to lead to the discovery of admissible evidence; (3) outside the scope of this proceeding; and (4) legal interpretations, strategy and argument.<sup>1</sup>

**I. BACKGROUND**

On June 30, 2021, Mr. Culbertson issued his Set V interrogatories.

On July 6, 2021, Columbia served objections to Set V, Questions 1-7, 9-22, 24, 26, and 29-52. A true and correct copy of Columbia’s objections is attached hereto as Appendix A.

On July 18, 2021, Mr. Culbertson filed an untimely Motion to Compel Columbia’s responses to Set V, Questions 3-5, 9, 11-15, 17-24, 26 and 29-50.<sup>2</sup>

---

<sup>1</sup> The Motion to Compel indicates that Columbia should be compelled to provide a response to Question 23. However, Columbia has provided an answer to that question.

<sup>2</sup> Because the Motion to Compel was submitted on a Sunday, the Motion to Compel is considered served on the following business day, Monday, July 19, 2021.

## **II. LEGAL STANDARD**

Pursuant to Section 5.321(c), a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding and that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). Relevant evidence is “that which, tends to establish some fact material to the case, or which tends to make a fact at issue more or less probable.” *Commonwealth v. Scott*, 389 A.2d 79, 82 (1978). Irrelevant or immaterial evidence is not admissible. 66 Pa. C.S. § 332(b). The Commission has excluded evidence on the basis that the evidence is not relevant to the scope of the proceeding. *See e.g., Investigation of the Philadelphia Area Taxicab Self-Insurance Program*, 1989 Pa. PUC LEXIS 206 (1989) (excluding evidence that was “not germane to the limited scope of the investigation...”).

The Commission’s regulations place limitations on the scope of discovery. Discovery that would cause unreasonable burden or expense or require an unreasonable investigation by a party is not permitted. 52 Pa. Code § 5.361(a)(2), (4). “The law is [ ] clear that the Commission has the right to limit discovery that would place an unreasonable burden upon a participant in litigation.” *Application of Newtown Artesian Water Company and Indian Rock Water Company*, Docket No. A-212070, 1990 Pa. PUC LEXIS 83 (June 20, 1990) *citing City of Pittsburgh v. Pa. PUC*, 526 A.2d 1243, 1249-50 (Pa. Cmwlth. 1987).

In addition, interrogatories that seek legal interpretations, legal strategy and information that is protected by attorney-client privilege are impermissible. *See, e.g. Pa. PUC, et al. v. Pennsylvania American Water Co.*, Docket Nos. R-2011-2232243, et al. 2011 Pa. PUC LEXIS 1523 (July 21, 2011) (interrogatories requesting privileged attorney-client communications, attorney work product, or an attorney’s mental impressions, analyses, or assessments as to legal matters are impermissible).

## **III. THE MOTION TO COMPEL SHOULD BE DENIED**

**A. The Motion to Compel is untimely.**

Mr. Culbertson's Motion to Compel is untimely and should be denied. On May 21, 2021, Administrative Law Judge ("ALJ") Hoyer issued a Prehearing Order, which modified the timeframes set forth in the Commission's regulations for discovery responses, objections, and certain discovery related pleadings. In accordance with the May 21, 2021 Prehearing Order, motions to compel are due within three days of service of written objections. Columbia served its written objections to Set V on July 6, 2021. Thus, any motion to compel the Set V responses was due on July 9, 2021. Mr. Culbertson did not file his Motion to Compel until Sunday, July 18, 2021. ALJ Hoyer explained as follows in the July 20, 2021 Third Interim Order issued in this case:

The discovery regulations were modified by a Prehearing Order issued in this proceeding on May 21, 2021. Those modifications were agreed upon by the parties participating in the prehearing conference. They are designed to lessen the discovery regulation time limits in an effort to afford the parties with timely discovery in advance of the preparation of written testimony and exhibits. These discovery modifications are necessary because there is a statutory deadline for this proceeding and hearings were scheduled for August 3-5, 2021, at the prehearing conference. It would be prejudicial to Columbia to entertain an untimely motion to compel while it responds to discovery from several parties, propounds discovery and prepares written testimony and exhibits. The discovery rules modifications must be applied equally and fairly to all parties in this proceeding.

*Third Interim Order Addressing Complainant Richard C. Culbertson's Third Motion to Compel Discovery* (July 20, 2021), pp. 2-3 (denying motion to compel as untimely). Therefore, Mr. Culbertson's untimely Motion to Compel Set V, Questions 3-5, 9, 11-15, 17-24, 26 and 29-50 should be denied.

**B. The Set V interrogatories are untimely, unreasonable, and violate the Commission's regulations regarding discovery.**

Mr. Culbertson's Set V interrogatories are untimely, unreasonable and violate the Commission's regulations regarding discovery.<sup>3</sup> See 52 Pa. Code §§ 5.331, 5.261. Section 5.331(b) requires that a "party shall initiate discovery as early in the proceedings as reasonably possible." 52 Pa. Code § 5.331(b). "The right to discovery commences when a complaint, protest or other adverse pleading is filed or when the Commission institutes an investigation or on the record proceeding, whichever is earlier." *Id.* Columbia submitted its proposed tariff supplement and direct testimony in this case on March 30, 2021. The Commission suspended Columbia's proposed filing and opened an investigation into the proposed rate increase on May 6, 2021. See *Order Suspending Supplement No. 325*, Docket No. R-2021-3024296 (Order entered May 6, 2021). Mr. Culbertson had several months to issue interrogatories to Columbia regarding Columbia's rate case filing. Instead, Mr. Culbertson issued only two sets of interrogatories prior to the due date for other parties' direct testimony and waited until after the date for other parties' direct testimony (approximately 2 ½ months after the Company's direct filing) to submit three additional sets of interrogatories. The latest set of interrogatories, Set V, contains 52 questions.

Mr. Culbertson's decision to delay asking the majority of his interrogatories until after the submission of other parties' direct testimony, while the Company was preparing rebuttal testimony, is unreasonable. The Commission's regulations also provide as follows:

(d) In a rate proceeding, initial discovery directed to data or information supplied by the public utility at the time of the initiation of the proceeding shall be submitted to the utility within 10 working days following the first prehearing conference. The presiding officer may establish reasonable limitations upon the timing of discovery.

52 Pa. Code § 5.331(d).

---

<sup>3</sup> Although Mr. Culbertson cites to the Federal Rules of Civil Procedure in his Set V Interrogatories, the Commission's discovery regulations, not the Federal Rules of Civil Procedure, apply to this proceeding before the Commission.

Mr. Culbertson should be prohibited from asking interrogatories that could have been asked before the rebuttal phase of the proceeding. The Commission's regulations prohibit discovery that is sought in bad faith or that would cause unreasonable annoyance or burden. 52 Pa. Code § 5.361(a). To wait until the Company is preparing rebuttal testimony to ask voluminous sets of discovery, much of which is irrelevant and requires the submission of objections and discovery motions, should not be permitted. Furthermore, Mr. Culbertson already submitted his direct testimony and cannot raise any new issues at the rebuttal or surrebuttal phases of the proceeding.<sup>4</sup> Therefore, Mr. Culbertson could not use any information gained from the Company's responses to the Set V discovery to raise new issues at this stage of the proceeding. This fact makes Mr. Culbertson's Set V interrogatories even more unreasonable.

**C. Mr. Culbertson's allegations regarding the Commission's auditing of Columbia are inaccurate, irrelevant, and should be disregarded.**

In his Motion to Compel, Mr. Culbertson alleges that there is a lack of required audits of utilities and that the Commission has been "derelict in its duty for a long time by not complying with the will of the people in not conducting audits." Motion to Compel, pp. 12-13. Mr. Culbertson alleges that his interrogatories are "normal audit questions." Motion to Compel, p. 12. Mr. Culbertson's argument has no merit. Contrary to Mr. Culbertson's allegations, Columbia is subject to regular audits by the Commission, which are public. *See, e.g.,* Management and Operations Audit of Columbia Gas of Pennsylvania, Inc., Docket No. D-2019-3011582 (Issued June 2020, available at <https://www.puc.pa.gov/pcdocs/1670369.pdf>). Moreover, Mr. Culbertson's allegations regarding what he views as a lack of sufficient auditing by the Commission provide no support for his Motion to Compel. The Commission, and not Mr. Culbertson, is responsible for conducting audits of utilities.

---

<sup>4</sup> *See, e.g., Pa. PUC v. UGI Utilities, Inc. (Electric Division)*, 1994 Pa. PUC LEXIS 137 (July 27, 1994).

**D. Mr. Culbertson's reliance on the Federal Rules of Civil Procedure and the American Bar Association's Rules of Professional Responsibility provide no support for his Motion to Compel.**

Mr. Culbertson's Motion to Compel references the Federal Rules of Civil Procedure and the American Bar Association's ("ABA") Rules of Professional Responsibility. Motion to Compel, p. 13. Neither of these references provide any support for the Motion to Compel.

The Federal Rules of Civil Procedure are not controlling in this case. Mr. Culbertson fails to recognize that the Commission has established Rules of Administrative Practice and Procedure that govern the discovery process in proceedings before the Commission and completely ignores the Commission's discovery regulations at 52 Pa. Code § 5.321, *et seq.* The Commission's discovery regulations, and not the Federal Rules of Civil Procedure, govern the discovery process in this proceeding before the Commission.

ABA Rule of Professional Responsibility 3.4 (Fairness to Opposing Party & Counsel) prohibits a lawyer from unlawfully obstructing another party's access to evidence or unlawfully altering, destroying or concealing a document or other material having potential evidentiary value. Mr. Culbertson's reference to ABA Rule of Professional Responsibility 3.4 confuses proper discovery objections and pleadings with unlawfully obstructing access to evidence. Objecting to impermissible discovery requests does not violate this rule.

**E. Set V, Questions 3-5, 9, 11-15, 17-22, 24, 26 and 29-50 are not within the scope of permissible discovery in this proceeding.<sup>5</sup>**

As explained herein, Richard C. Culbertson Set V, Questions 3-5, 9, 11-15, 17-22, 24, 26 and 29-50, are not within the scope of permissible discovery in this proceeding.

Set V, Question 3 states:

The NiSource representations to investors include [https://investors.nisource.com/company-information/default.aspx\\_~\\$40B](https://investors.nisource.com/company-information/default.aspx_~$40B) of 100%

---

<sup>5</sup> The Motion to Compel indicates that Columbia should be compelled to provide a response to Question 23. However, Columbia has provided an answer to that question.

Regulated Utility Infrastructure Investment Opportunities”. What is the estimated share of that \$40 Billion is attributed to CPA? What is the expected annual growth of CPA’s rate base for the next 5 years?

On July 12, 2021, Columbia provided a partial response to Question 3. In its partial response, Columbia indicated that the expected annual growth of Columbia’s rate base is highly confidential and will be made available for review upon execution of an appropriate confidentiality agreement. Columbia objects to the remainder of Question 3 because it is irrelevant. Specifically, the requested information pertaining to companies other than Columbia is irrelevant to this proceeding. Only Columbia Gas of Pennsylvania is being examined in this proceeding. The other referenced utilities outside of Pennsylvania are not parties to this case, and Columbia cannot speak for those entities. With respect to this interrogatory, the Motion to Compel simply states that “Ratepayers have a right to know what to expect to in future rates, the same with investors.” Motion to Compel, p. 17. The Motion to Compel does not explain how this question is relevant to the rates and service of Columbia.

Set V, Question 4 states:

Question/ Data request

Has the NiSource Board’s Audit Committee been provided this chart? If not, why not? Are they comfortable with it? Why or Why Not? This interrogatory is directed to Theodore H. Bunting Jr Chair of the NiSource Board’s Audit Committee.

Question 3 is vague and appears to seek information that is irrelevant to this proceeding. It is unclear who “they” is and what is meant by “this chart.” To the extent information is being requested from NiSource, NiSource is not a party to this case. Also, Theodore H. Bunting Jr. is not a witness in this case. In the Motion to Compel, Mr. Culbertson compares Columbia’s rate base per customer to that of its sister companies in other states. However, the rate base of other companies is irrelevant to this base rate proceeding involving Columbia Gas of Pennsylvania.

Question 5 provides as follows:



Please account (provide facts at a high level) for the disparity rate base per customer between Columbia Gas of Pennsylvania and NiSource Utilities in Indiana, Ohio, and Kentucky.

Question 5 requests information regarding the rate base per customer of utilities other than Columbia Gas of Pennsylvania. The requested information is irrelevant to this proceeding. The rate base being examined in this proceeding is that of Columbia Gas of Pennsylvania. In his Motion to Compel, Mr. Culbertson argues that “this is a fair question in an audit.” Motion to Compel, p. 18. This argument provides no support for his Motion to Compel because the Commission is responsible for conducting audits of Columbia, and Mr. Culbertson is not auditing Columbia in this case. This is a base rate proceeding, and not an audit. Interrogatories must be relevant to the issues being examined in the base rate proceeding.

Question 9 provides as follows:

As a regulated utility who has authority from the PUC to provide Columbia day-to-day directions. Do these individuals have the authority to authorize the spending of money? How do the PUC and CPA hierarchies work together? Briefly explain.

Question 9 is vague, seeks information that is irrelevant, and calls for a legal conclusion as to the Commission’s authority. It is unclear who the question is referring to when it states “these individuals” because the individuals have not been identified in the question. To the extent that the question is asking for information from the Commission, Columbia cannot speak for the Commission.

Question 11 states:

Do these PUC individuals have the authority to give unlawful orders? And If they do, what is the resolution practice? For example, do PUC officials have the authority to authorize material deviations from Generally Accepted Accounting Practices or FERC Accounting, e.g., changing period cost to capital cost?

Question 11 is vague, irrelevant and calls for a legal conclusion as to the authority of the Commission. Columbia cannot speak for what employees of the Commission are or are not

authorized to do. In the Motion to Compel, Mr. Culbertson argues that the question is asking about Columbia's internal controls. However, the question is actually asking about the authority of individuals employed by the Commission. Columbia has no control over the authority of individuals employed by the Commission.

Questions 12 and 13 state:

12. Title 66 § 1359. Projects.

(b) *Inspection.* --*Projects for which work to repair, improve or replace eligible property is performed by independent contractors shall be subject to reliability and safety standards and to inspection by utility employees.*

(c) *Cost.*--*Work on projects to repair, improve or replace eligible property that is not performed by qualified employees or contractors or inspected by the utility's qualified personnel shall not be eligible for recovery of a distribution system improvement charge.*

Please provide the internal instruction, Gas Standard, or the like that puts this PA law into practice at CPA.

Assume the same quality standards are used in all work on Columbia's distribution system?

13. What is the CPA control that identifies work that was or was not compliant with – (c) *Cost.*--*Work on projects to repair, improve or replace eligible property that is not performed by qualified employees or contractors or inspected by the utility's qualified personnel **shall not be eligible for recovery?***

Questions 12 and 13 seek information that is irrelevant and ask Columbia to provide a legal conclusion. The questions appear to be seeking a legal conclusion as to how a law is put into practice and a legal interpretation regarding compliance with a statute. In the Motion to Compel, Mr. Culbertson states that “this is a significant audit question.” However, that is not the standard for relevant discovery in this case. Discovery in this case must be relevant to the issues being examined in a base rate proceeding.

Question 12 is also vague and unintelligible. “Assume the same quality standards are used in all work on Columbia's distribution system?” does not ask a question. The referenced statute is

about the Distribution System Improvement Charge (“DSIC”). However, the question does not appear to be asking about the (“DSIC”).

Question 14 states:

Work performed not eligible for recovery, are such costs charged to FERC account 426.5 Other deductions? Please explain.

Question 14 is vague and appears to call for a legal conclusion. It is unclear what is meant by the reference to “work performed not eligible for recovery.” The question is also objectionable to the extent that it is asking for a legal interpretation of what constitutes a recoverable cost.

Question 15 states:

During installation, improvement, and repair of distribution systems that occurs on streets and highways, Pennsylvania law Title 67 Chapter 212 in many circumstances flaggers and associated equipment are required to control traffic.

Are these flaggers employees of CPA? Please Explain. If not, why not?

Question 15 seeks information that is irrelevant to this base rate proceeding. The entity that employs the individuals responsible for flagging traffic is irrelevant to the rates and service of Columbia. In the Motion to Compel, Mr. Culbertson states his position that this is an auditing question. Again, that is not the standard for relevance in this case. Discovery in this case must be relevant to the issues being examined in a base rate proceeding, i.e. the rates and service of Columbia.

Questions 17 and 18 provide:

17. Question/ Data request

What does it cost per day for a two- and three-person crew and equipment?  
If directly paid by CPA? What is it if the flagging cost goes through a CPA Contractor?

18. Question/ Data request.

What would the cost per day be if this work were performed in-house by Columbia employees?

Questions 17 and 18 are vague, overly broad and call for speculation. The questions ask for the cost of a crew and equipment without any reference to the work that is being performed. It

would be impossible to answer such broad questions as the cost of projects can vary greatly based upon many factors including where and what type of work is being performed.

Questions 19, 20, 21 and 22:

19. Why are local police used or employed for the traffic control function?
20. Why is it reasonable to use both a hired or supplied local police as well as a flagging crew at one job site?
21. What is the arrangement with the use of local police? Are these police independent contractors using the property of the municipality? Are they employed by the municipality and supplied by the municipality?
22. In the last year 2020, how much money went to flagging companies vs. for local police services?

Columbia objects to Questions 19, 20, 21 and 22 because they are overly broad and seek information that is irrelevant to this base rate proceeding. Question 19 is extremely broad, and Columbia cannot speak to every situation in which local police would or would not be involved in traffic control. Furthermore, Columbia cannot speak for the local police or local municipalities. Questions 20 is overly broad and lacks context. There are many different job sites, and the question provides no information as to the type of job site being referenced. The question also appears to assume, without any explanation, that police and a flagging are being used at the hypothetical job site. In addition, Questions 20 appears to call for a legal conclusion as to whether a cost is reasonable. Questions 21 and 22 are vague and overly broad. Question 21 asks for the arrangements with local police but does not provide any context for the question. Columbia operates performs work in several municipalities with different local police forces, and each project the Company performs is different and requires a different level of participation by the local municipality. It is impossible to answer such a broad question. Likewise, Question 22 asks for a comparison of the money spent on flagging companies versus local police services without any additional context. Columbia performs numerous projects in a year, all of which are unique and would require different levels of involvement by flagging companies and/or local police.

Columbia provided an answer to Question 23.

Question 24 states:

For Columbia's burden of proof -- How can, and on what basis can accelerated expenditures be reasonable expenditures -- under FERC, the Government's Cost Principles, GAAP, or the Tariff?

Columbia objects to Question 24 because it calls for a legal conclusion as to the reasonableness of expenditures. Question 24 also asks Columbia to explain how it meets the burden of proof. Such legal questions are improper for discovery.

Question 26 states:

Please provide the first cost of Customer Service Line Replacements included in plant accounts by year for the last five years as well as netbook values. This was previously reported under Account 376.08 Mains- CSL Replacements.

Question 26 is vague. It is unclear what the reference to "first cost" means. In the Motion to Compel, Mr. Culbertson's explanation is just as unclear as the question. In the Motion to Compel, Mr. Culbertson states, "Sometimes first cost can be acquisition cost, sometimes it can be referred to as additions. First cost would generally not include betterments and improvements to a particular asset. But sometimes acquisition cost of a unit can include other subsequent costs such as installation and transportation costs." Motion to Compel, p. 25. Without a clear definition of what information is being requested, Columbia cannot answer the question.

Question 29 states:

Did the auditors take into account the requirement of PA PUC Regulation Chapter 59.36, Abandonment of inactive service lines? "A review of the status of inactive lines shall be made annually, at periods not exceeding 15 months." Please explain if this requirement was audited. The PA PUC regulation is counter to the NiSource internal policy and practice. Correct?

Question 29 because it asks Columbia to provide information regarding the mental impressions of auditors and calls for a legal conclusion. It is also unclear what audit the question is referencing. To the extent the reference to "auditors" means the Commission's audit staff,

Columbia cannot speak for the Commission’s audit staff. In the Motion to Compel, Mr. Culbertson claims that “it is certainly clear what document is being referred to and who are the auditors.” Motion to Compel, p. 27. However, Mr. Culbertson does not identify the document or auditors. Without this information, Columbia cannot answer the question.

Question 30 provides:

Did the internal auditors discover and reveal to the Audit Committee that CPA along with abandoning service lines they have been abandoning private property—customer’s service lines?

Question 30 is improper because it assumes facts that are not in evidence and that are untrue. In the Motion to Compel, Mr. Culbertson states, “Make no mistake there are facts presented in the referenced internal audit report.” Again, Mr. Culbertson has not identified what “audit report” he is referencing.

Questions 31 through 36 state:

31. Service line and customer’s service line are defined in PA Title 66 § 102. Definitions.  
[https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=66&div=0&chp\\_t=1&sctn=2&subsctn=0](https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=66&div=0&chp_t=1&sctn=2&subsctn=0) “Service lines” are owned by CPA and are personal property and “customer’s service lines” are an owner’s real property. Correct?

32. PA PUC regulations supersede the NiSource / Columbia internal policy. Correct?

33. The NiSource / Columbia policy and practice on the abandonment of service lines are not in compliance with PUC Regulation 59.36., especially “A review of the status of inactive lines shall be made annually, at periods not exceeding 15 months.” Correct?

## Appendix C – New Service Line Install Subsequent to Abandonment

As it can be difficult to accurately predict the prospect for future use, Internal Audit performed an analysis to determine how frequently a NiSource company installed a new service line less than one year after abandoning a service line at that same location. As noted in the table below, this scenario occurred after ~7% of the completed abandonments.

Company	# SL Abandonments	New SL Install < 1 Year from Abandonment	%
Ohio	58,025	4,524	8%
Kentucky	4,561	143	3%
Virginia	4,336	187	4%
Pennsylvania	8,835	563	6%
Maryland	1,184	78	7%
ALL COMPANIES	76,941	5,495	7%

34. From the table above – if 563 service lines had to be replaced after abandonment within the first year of abandonment – this is an indication that the service lines should not have been abandoned in the first place. Correct?

35. Was this cost to replace the abandoned lines considered unreasonable cost? Please explain.

36. For Pennsylvania, when the service lines were abandoned, were the corresponding customer's service lines abandoned by CPA as well? And were these property owners forced to replace their customer's service lines if they wanted to restore service? If so, all 563 of them?

Questions 31 through 36 all pertain to customer service lines. These questions are improper because they are the subject of a pending complaint case before the Commission involving Columbia and Mr. Culbertson. The issues in the complaint case are separate from this proceeding. The base rate proceeding should not be used as a vehicle to obtain discovery related to the separate complaint case. Additionally, Questions 31-33 inappropriately ask for Columbia to provide legal interpretations and legal conclusions. Question 35 is vague. It is unclear what "this cost" is referencing.

Questions 37 through 50 provide as follows:

### STANDARDS FOR CUSTOMER SERVICE LINES, METERS, AND SERVICE REGULATORS (Plumber's Guide)

<https://www.columbiagaspa.com/docs/librariesprovider14/contractors-and-plumbers/plumber-qualifications/plumber-s-guide.pdf?sfvrsn=9> This Interrogatory is directed to the NiSource Audit Committee.

37. Question/ Data request

This document is published by and is the responsibility of Columbia Gas of Pennsylvania.

Correct?

38. Question/ Data request

This is not a NiSource Gas Standard. Correct?

39. Question/ Data request

What CPA company official approved and is responsible for this document?

40. Question/ Data request

This document has 272 “shall” statements and 24 “must” statements”. This is reasonably correct per a word search?

41. Question/ Data request

To whom do these must and shall stall statements apply?

42. Question/ Data request

From CPA ***“Authority Having Jurisdiction – Fire Chief, Local Code Official, 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 requirements contained herein. When in doubt as to the proper procedure, consult your Gas Company and other authorities before proceeding with the work.”***

NFPA codes define the AHJ as “an organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure.” .... “Where public safety is primary, the AHJ may be a federal, state, local, or other regional department or individual such as a fire chief; fire marshal; chief of a fire prevention bureau, labor department, or health department; building official; electrical inspector; or others having statutory authority.”

CPA does not have statutory authority to be an Authority Having Jurisdiction. Correct?

43. Question/ Data request

Columbia/ NiSource recognizes being an ***Authority Having Jurisdiction*** is a municipal function and based upon the Pennsylvania Constitution Section 31, they are prohibited from being an ***Authority Having Jurisdiction***.

CONSTITUTION of the COMMONWEALTH OF PENNSYLVANIA, Section 31:

Delegation of Certain Powers Prohibited

***“The General Assembly shall not delegate to any special commission, private***

***corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.”***

44. Question/ Data request

Columbia recognizes Pennsylvania Law Title 18 CHAPTER 49

***FALSIFICATION AND INTIMIDATION§ 4912. Impersonating a public servant. -- A person commits a misdemeanor of the second degree if he 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. Correct?

*The NiSource Audit Committee recognizes that Columbia should not be representing itself as **Authority Having Jurisdiction**. Correct?*

45. Question/ Data request

On what basis does Columbia have authority over private property owners and their plumbing contractors when title to natural gas passes at the curb valve? Granted Columbia has access to its property located on private property which is primarily limited to the meter and the meter hanger.

46. Question/ Data request

When Columbia Gas employees work outside of Columbia's distribution system, the associated cost is unreasonable thus unallowable. Correct?

47. Question/ Data request

Please review the **Form 1-C-3363, "Operator Qualification Card"**, is **this an official form authorized by NiSource or Columbia's management? Who approved this form.**

48. Question/ Data request

Has this form been brought to the attention of the NiSource Audit Committee? If so, what were the conclusions?

49. Question/ Data request

Does the Audit Committee recognize various irregularities on this form? Does this look like an official NiSource management-approved internal form with its red various flags?

- No logo of Columbia Gas or NiSource
- An "operator" is a gas company, not a plumbing contractor
- This is not a controlled form
- Private contractors, not employed by Columbia do not work on service lines

– they can work on customer's service lines

- The first sentence "I attest ... fully comply with all ...Columbia Gas procedures (How can an individual attest to compliance to documents of which they do not have access?

• 49 CFR 192, Subpart N – is 49 CFR Part 192, Subpart N - **Qualification of Pipeline Personnel**. A private individual does not work on gas pipelines owned to be a gas utility. – Deceptive

- This form has been used for almost 20 years.
- How can the document be classified as PROPRIETARY when it is available on the internet?

- The **WARNING! About Fraudulent or misuse ...**

50. Question/ Data request

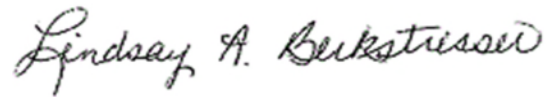
Does the Audit Committee condone the use and requirements in this document including requiring private plumbers to take their time, pay money, take blood tests and DOT training of 49 CFR Transportation, 192 TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS, when transportation of gas ends upon delivery at the property line and 49 CFR 192 does not apply to non-transportation issues on private property?

Question 37 through 50 all refer to a plumber's guide. Columbia objects to these questions because they are the subject of a pending complaint case before the Commission involving Mr. Culbertson and Columbia. That complaint is separate from this case. It would be improper to use this base rate proceeding as a means for obtaining discovery that involves the separate complaint case. Columbia further objects to these questions because they are argumentative, irrelevant to the base rate proceeding and call for legal arguments and conclusions.

#### IV. CONCLUSION

WHEREFORE, Columbia Gas of Pennsylvania, Inc. respectfully requests that the Motion to Compel be denied.

Respectfully submitted,



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

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

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

Date: July 22, 2021

# APPENDIX A

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

---

**OBJECTIONS OF COLUMBIA GAS OF PENNSYLVANIA, INC.  
TO THE INTERROGATORIES PROPOUNDED BY  
RICHARD C. CULBERTSON – SET V, QUESTIONS 1-7, 9-22, 24, 26, AND 29-52**

---

Columbia Gas of Pennsylvania, Inc. (“Columbia”) hereby submits these Objections to the Interrogatories Propounded by Richard C. Culbertson Set V, Questions 1-7, 9-22, 24, 26, and 29-52, pursuant to 52 Pa. Code § 5.342. As explained below, Columbia objects to Richard C. Culbertson Set V, Questions 1-7, 9-22, 24, 26, and 29-52, because they are vague, untimely and unreasonable, and because they seek information that is (1) irrelevant and unlikely to lead to the discovery of admissible evidence; (3) outside the scope of this proceeding; and (4) legal interpretations, strategy and argument.

**I. GENERAL OBJECTIONS TO RICHARD C. CULBERTSON SET V**

Columbia objects to Richard C. Culbertson Set V because it is untimely, unreasonable and violates the Commission’s regulations regarding discovery.<sup>1</sup> See 52 Pa. Code §§ 5.331, 5.261. Section 5.331(b) requires that a “party shall initiate discovery as early in the proceedings as reasonably possible.” 52 Pa. Code § 5.331(b). “The right to discovery commences when a complaint, protest or other adverse pleading is filed or when the Commission institutes an

---

<sup>1</sup> Although Mr. Culbertson cites to the Federal Rules of Civil Procedure in his Set V Interrogatories, the Commission’s discovery regulations, not the Federal Rules of Civil Procedure, apply to this proceeding before the Commission.

investigation or on the record proceeding, whichever is earlier.” *Id.* Columbia submitted its proposed tariff supplement and direct testimony in this case on March 30, 2021. The Commission suspended Columbia’s proposed filing and opened an investigation into the proposed rate increase on May 6, 2021. *See Order Suspending Supplement No. 325*, Docket No. R-2021-3024296 (Order entered May 6, 2021). Mr. Culbertson had several months to issue interrogatories to Columbia regarding Columbia’s rate case filing. Instead, Mr. Culbertson issued only two sets of interrogatories prior to the due date for other parties’ direct testimony and waited until after the date for other parties’ direct testimony (approximately 2 ½ months after the Company’s direct filing) to submit three additional sets of interrogatories. The latest set of interrogatories, Set V, contains 52 questions.

Mr. Culbertson’s decision to delay asking the majority of his interrogatories until after the submission of other parties’ direct testimony, while the Company is preparing rebuttal testimony, is unreasonable. The Commission’s regulations also provide as follows:

(d) In a rate proceeding, initial discovery directed to data or information supplied by the public utility at the time of the initiation of the proceeding shall be submitted to the utility within 10 working days following the first prehearing conference. The presiding officer may establish reasonable limitations upon the timing of discovery.

52 Pa. Code § 5.331(d).

Mr. Culbertson should be prohibited from asking interrogatories that could have been asked before the rebuttal phase of the proceeding. The Commission’s regulations prohibit discovery that is sought in bad faith or that would cause unreasonable annoyance or burden. 52 Pa. Code § 5.361(a). To wait until the Company is preparing rebuttal testimony to ask voluminous sets of discovery, much of which is irrelevant and requires the submission of objections and discovery motions, should not be permitted. Furthermore, Mr. Culbertson already submitted his direct

testimony and cannot raise any new issues at the rebuttal phase of the proceeding.<sup>2</sup> Therefore, Mr. Culbertson could not use any information gained from the Company's responses to the Set V discovery to raise new issues at this stage of the proceeding. This fact makes Mr. Culbertson's Set V interrogatories even more unreasonable.

In addition to being untimely, as explained herein, Richard C. Culbertson Set V, Questions 1-7, 9-22, 24, 26, and 29-52, are not within the scope of permissible discovery in this proceeding. Pursuant to Section 5.321(c) of the Commission's regulations, a party may obtain discovery of any matter not privileged that is relevant to a pending proceeding or that is reasonably calculated to lead to the discovery of admissible evidence. 52 Pa. Code § 5.321(c). Relevant evidence is "that which, tends to establish some fact material to the case, or which tends to make a fact at issue more or less probable." *Commonwealth v. Scott*, 389 A.2d 79, 82 (1978).<sup>3</sup> Irrelevant or immaterial evidence is not admissible. 66 Pa. C.S. § 332(b). The Commission has excluded evidence on the basis that the evidence is not relevant to the scope of the proceeding. See e.g., *Investigation of the Philadelphia Area Taxicab Self-Insurance Program*, 1989 Pa. PUC LEXIS 206 (1989) (excluding evidence that was "not germane to the limited scope of the investigation..."). The Commission's regulations place limitations on the scope of discovery. Discovery that would cause unreasonable burden or expense or require an unreasonable investigation by a party is not permitted. 52 Pa. Code § 5.361(a)(2), (4).

In addition, interrogatories that seek legal interpretations, legal strategy and information that is protected by attorney-client privilege are impermissible. See, e.g. *Pa. PUC, et al. v. Pennsylvania American Water Co.*, Docket Nos. R-2011-2232243, et al. 2011 Pa. PUC LEXIS 1523 (July 21,

---

<sup>2</sup> See, e.g., *Pa. PUC v. UGI Utilities, Inc. (Electric Division)*, 1994 Pa. PUC LEXIS 137 (July 27, 1994).

<sup>3</sup> See Pa.R.E. 401 ("Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action."); *Ecker v. Amtrak*, 2015 Phila. Ct. Com. Pl. LEXIS 98 (Mar. 13, 2015), *affirmed*, 2015 Pa. Super. Unpub. LEXIS 3615 (Pa. Super. 2015); *Parr v. Ford Motor Co.*, 109 A.3d 682 (Pa. Super. 2014), *appeal denied*, 2015 Pa. LEXIS 1150 (Pa. 2015). Even if evidence is relevant, such evidence may be excluded "if its probative value is outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." *Parr*, 109 A.3d at 697 (quoting Pa.R.E. 403).

2011) (interrogatories requesting privileged attorney-client communications, attorney work product, or an attorney's mental impressions, analyses, or assessments as to legal matters are impermissible).

**II. OBJECTIONS TO RICHARD C. CULBERTSON SET V, QUESTIONS 1-7, 9-22, 24, 26, AND 29-52**

Set V, Question 1 provides as follows:

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>

Please update and provide this table with current, accurate complete information.

If Columbia receives what it has requested, please provide the *proforma* data in a like table.

	~ 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		

Objection: Columbia will provide the requested information for Columbia Gas of Pennsylvania. However, Columbia objects to the request for rate base information for utilities in other states. Information pertaining to the rate base of other utilities outside of Pennsylvania is irrelevant to this proceeding. Only Columbia Gas of Pennsylvania is being examined in this



proceeding. Furthermore, the referenced utilities are not parties to this case, and Columbia Gas of Pennsylvania cannot speak for those utilities.

Set I, Question 2 provides as follows:

2. Question/ Data request

Given the differences and the population sizes, each utility is statistically significantly different from other utilities. How can the rate base per customer of Columbia Gas of Pennsylvania (CPA) as opposed to neighboring companies be about 2.7 times that of Indiana and 2.6 times that of Ohio be reasonable?

*Please consider 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. ... consideration **must** be given to:*

*(a) Whether the cost is of a type generally recognized as ordinary and necessary ... or the proper and efficient performance ...*

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

Objection: Set V, Question 2 is irrelevant and seeks a legal conclusion. As explained above, the information requested from utilities other than Columbia is irrelevant to this proceeding. Columbia further objects to Question 2 on the basis that it is asking for Columbia to provide a legal opinion as to whether costs are reasonable under the law.

Set V, Question 3 states:

The NiSource representations to investors include [https://investors.nisource.com/company-information/default.aspx\\_~\\$40B](https://investors.nisource.com/company-information/default.aspx_~$40B) of 100% Regulated Utility Infrastructure Investment Opportunities”. What is the estimated share of that \$40 Billion is attributed to CPA? What is the expected annual growth of CPA’s rate base for the next 5 years?

Objection: The expected annual growth of Columbia’s rate base is highly confidential and will be made available for review upon execution of an appropriate confidentiality agreement. Columbia objects to the remainder of Question 3. As explained above, information pertaining to companies other than Columbia is irrelevant to this proceeding.

Set V, Question 4 states:

Question/ Data request

Has the NiSource Board's Audit Committee been provided this chart? If not, why not? Are they comfortable with it? Why or Why Not? This interrogatory is directed to Theodore H. Bunting Jr Chair of the NiSource Board's Audit Committee.

Objection: Columbia objects to Question 3 on the basis that it is vague and appears to seek information that is irrelevant to this proceeding. It is unclear who "they" is and what is meant by "this chart." To the extent information is being requested from NiSource, NiSource is not a party to this case. Also, Theodore H. Bunting Jr. is not a witness in this case.

Question 5 provides as follows:

Please account (provide facts at a high level) for the disparity rate base per customer between Columbia Gas of Pennsylvania and NiSource Utilities in Indiana, Ohio, and Kentucky.

Objection: Columbia objects to this question because the rate base per customer of utilities other than Columbia Gas of Pennsylvania is irrelevant to this proceeding. The rate base being examined in this proceeding is that of Columbia Gas of Pennsylvania.

Question 6 states:

Are safety records in Pennsylvania significantly different and much safer than in Indiana and Ohio?

Objection: Columbia objects to this question because it is vague, overbroad and appears to seek information that is irrelevant. The question broadly references "safety records in Pennsylvania" without any additional detail. To the extent the question is requesting information regarding safety records in other states, that information is irrelevant to this proceeding. Columbia operates only in Pennsylvania.

Question 7 states:

Are there a greater amount of leaky pipes in those states than in Pennsylvania?

Objection: Columbia objects to this question as vague and irrelevant. Little context is provided for this question. To the extent the question is asking about “leaky pipes” in other states, that information is irrelevant to this case.

Columbia intends to provide a response to Question 8.

Question 9 provides as follows:

As a regulated utility who has authority from the PUC to provide Columbia day-to-day directions. Do these individuals have the authority to authorize the spending of money? How do the PUC and CPA hierarchies work together? Briefly explain.

Objection: Columbia objections to Question 9 because it is vague, seeks information that is irrelevant and calls for a legal conclusion. To the extent that the question is asking for information from the Commission, Columbia cannot speak for the Commission.

Question 10 states:

Do these PUC individuals have the authority to interpret laws, regulations, and orders? Please explain.

Objection: Columbia objects to Question 10 because it is irrelevant and calls for a legal conclusion. It is also unclear who “these individuals” is referring to in the question. Columbia does not determine which Commission employees have authority to interpret the law.

Question 11 states:

Do these PUC individuals have the authority to give unlawful orders? And If they do, what is the resolution practice? For example, do PUC officials have the authority to authorize material deviations from Generally Accepted Accounting Practices or FERC Accounting, e.g., changing period cost to capital cost?

Objection: Columbia objects to Question 11 because it is vague, irrelevant and calls for a legal conclusion. Columbia cannot speak for what employees of the Commission are or are not authorized to do.

Questions 12 and 13 state:

12. Title 66 § 1359. Projects.

(b) *Inspection. --Projects for which work to repair, improve or replace eligible property is performed by independent contractors shall be subject to reliability and safety standards and to inspection by utility employees.*

(c) *Cost.--Work on projects to repair, improve or replace eligible property that is not performed by qualified employees or contractors or inspected by the utility's qualified personnel shall not be eligible for recovery of a distribution system improvement charge.*

Please provide the internal instruction, Gas Standard, or the like that puts this PA law into practice at CPA.

Assume the same quality standards are used in all work on Columbia's distribution system?

13. What is the CPA control that identifies work that was or was not compliant with – (c) *Cost.-Work on projects to repair, improve or replace eligible property that is not performed by qualified employees or contractors or inspected by the utility's qualified personnel **shall not be eligible for recovery?***

Objection: Columbia objects to Questions 12 and 13 because they seek information that is irrelevant and ask Columbia to provide a legal conclusion. Question 12 is also vague and unintelligible. “Assume the same quality standards are used in all work on Columbia’s distribution system?” does not ask a question. The referenced statute is about the Distribution System Improvement Charge (“DSIC”). However, the question does not appear to be asking about the (“DSIC”).

Question 14 states:

Work performed not eligible for recovery, are such costs charged to FERC account 426.5 Other deductions? Please explain.

Objection: Columbia objects to Question 14 because it is vague and calls for a legal conclusion.

Question 15 states:

During installation, improvement, and repair of distribution systems that occurs on streets and highways, Pennsylvania law Title 67 Chapter 212 in many circumstances flaggers and associated equipment are required to control traffic.

Are these flaggers employees of CPA? Please Explain. If not, why not?

Objection: Columbia objections to this question because it seeks information that is irrelevant to this base rate proceeding. The entity that employs the individuals responsible for flagging traffic is irrelevant.

Question 16 states:

What are the controls to maximize safety at a reasonable cost?

Objection: Question 16 is vague. The question is extremely broad, and it is entirely unclear what is being requested in this question.

Questions 17 and 18 provide:

17. Question/ Data request

What does it cost per day for a two- and three-person crew and equipment?  
If directly paid by CPA? What is it if the flagging cost goes through a CPA Contractor?

18. Question/ Data request.

What would the cost per day be if this work were performed in-house by Columbia employees?

Objection: Columbia objects to Questions 17 and 18 because they are vague and call for speculation. The questions ask for the cost of a crew and equipment without any reference to the work that is being performed. It would be impossible to answer such broad questions as the cost of projects can vary greatly based upon many factors including where and what type of work is being performed.

Questions 19, 20, 21 and 22:

19. Why are local police used or employed for the traffic control function?

20. Why is it reasonable to use both a hired or supplied local police as well as a flagging crew at one job site?

21. What is the arrangement with the use of local police? Are these police independent contractors using the property of the municipality? Are they employed by the municipality and supplied by the municipality?

22. In the last year 2020, how much money went to flagging companies vs. for local police services?

Objection: Columbia objects to Questions 19, 20, 21 and 22 because they are overly broad and seek information that is irrelevant to this base rate proceeding. Question 19 is extremely broad, and Columbia cannot speak to every situation in which local police would or would not be involved in traffic control. Furthermore, Columbia cannot speak for the local police or local municipalities. In addition. Questions 20 and 21 call for a legal conclusion.

Columbia will provide an answer to Question 23.

Question 24 states:

For Columbia's burden of proof -- How can, and on what basis can accelerated expenditures be reasonable expenditures -- under FERC, the Government's Cost Principles, GAAP, or the Tariff?

Objection: Columbia objects to Question 24 because it calls for a legal conclusion.

Columbia will provide an answer to Question 25.

Question 26 states:

Please provide the first cost of Customer Service Line Replacements included in plant accounts by year for the last five years as well as netbook values. This was previously reported under Account 376.08 Mains- CSL Replacements.

Objection: Columbia objects to Question 26 because it is vague. It is unclear what the reference to "first cost" means.

Columbia will provide an answer to Questions 27 and 28.

Question 29 states:

Did the auditors take into account the requirement of PA PUC Regulation Chapter 59.36, Abandonment of inactive service lines? "A review of the status of inactive lines shall be made annually, at periods not exceeding 15 months." Please explain if this requirement was audited. The PA PUC regulation is counter to the NiSource internal policy and practice. Correct?

Objection: Columbia objects to Question 29 because it asks Columbia to provide information regarding the mental impressions of auditors and calls for a legal conclusion. It is also

unclear what audit the question is referencing. To the extent the reference to “auditors” means the Commission’s audit staff, Columbia cannot speak for the Commission’s audit staff.

Question 30 provides:

Did the internal auditors discover and reveal to the Audit Committee that CPA along with abandoning service lines they have been abandoning private property—customer’s service lines?

Objection: Columbia objection to Question 30 because it assumes facts that are not in evidence and that are untrue.

Questions 31 through 36 state:

31. Service line and customer’s service line are defined in PA Title 66 § 102. Definitions.

[https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=66&div=0&chp\\_t=1&sctn=2&subscn=0](https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=66&div=0&chp_t=1&sctn=2&subscn=0) “Service lines” are owned by CPA and are personal property and “customer’s service lines” are an owner’s real property. Correct?

32. PA PUC regulations supersede the NiSource / Columbia internal policy. Correct?

33. The NiSource / Columbia policy and practice on the abandonment of service lines are not in compliance with PUC Regulation 59.36., especially “A review of the status of inactive lines shall be made annually, at periods not exceeding 15 months.” Correct?

## Appendix C – New Service Line Install Subsequent to Abandonment

Exhibit No. 13  
Schedule No. 4  
Attachment A  
Page 139 of 319

As it can be difficult to accurately predict the prospect for future use, Internal Audit performed an analysis to determine how frequently a NiSource company installed a new service line less than one year after abandoning a service line at that same location. As noted in the table below, this scenario occurred after ~7% of the completed abandonments.

Company	# SL Abandonments	New SL Install < 1 Year from Abandonment	%
Ohio	58,025	4,524	8%
Kentucky	4,561	143	3%
Virginia	4,336	187	4%
Pennsylvania	8,835	563	6%
Maryland	1,184	78	7%
ALL COMPANIES	76,941	5,495	7%

34. From the table above – if 563 service lines had to be replaced after abandonment within the first year of abandonment – this is an indication that the service lines should not have been abandoned in the first place. Correct?

35. Was this cost to replace the abandoned lines considered unreasonable cost? Please explain.

36. For Pennsylvania, when the service lines were abandoned, were the corresponding customer's service lines abandoned by CPA as well? And were these property owners forced to replace their customer's service lines if they wanted to restore service? If so, all 563 of them?

Questions 31 through 36 all pertain to customer service lines. Columbia objects to these questions because they are the subject of a pending complaint case before the Commission involving Columbia and Mr. Culbertson. The issues in the complaint case are separate from this proceeding. The base rate proceeding should not be used as a vehicle to obtain discovery related to the separate complaint case. Additionally, Questions 31-33 inappropriately ask for Columbia to provide legal interpretations and legal conclusions. Question 35 is vague. It is unclear what "this cost" is referencing.

Question 37 through 50 provide as follows:

**STANDARDS FOR CUSTOMER SERVICE LINES, METERS, AND SERVICE REGULATORS (Plumber's Guide)**  
<https://www.columbiagaspa.com/docs/librariesprovider14/contractors-and-plumbers/plumber-qualifications/plumber-s-guide.pdf?sfvrsn=9> This Interrogatory is directed to the NiSource Audit Committee.

37. Question/ Data request

This document is published by and is the responsibility of Columbia Gas of Pennsylvania.

Correct?

38. Question/ Data request

This is not a NiSource Gas Standard. Correct?

39. Question/ Data request

What CPA company official approved and is responsible for this document?

40. Question/ Data request

This document has 272 "shall" statements and 24 "must" statements". This is reasonably correct per a word search?

41. Question/ Data request

To whom do these must and shall statements apply?

42. Question/ Data request

From CPA ***"Authority Having Jurisdiction – Fire Chief, Local Code Official, 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 requirements contained herein. When in doubt as to the proper procedure, consult your Gas Company and other authorities before proceeding with the work.”

NFPA codes define the AHJ as “an organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure.” .... “Where public safety is primary, the AHJ may be a federal, state, local, or other regional department or individual such as a fire chief; fire marshal; chief of a fire prevention bureau, labor department, or health department; building official; electrical inspector; or others having statutory authority.”

CPA does not have statutory authority to be an Authority Having Jurisdiction. Correct?

43. Question/ Data request

Columbia/ NiSource recognizes being an **Authority Having Jurisdiction** is a municipal function and based upon the Pennsylvania Constitution Section 31, they are prohibited from being an **Authority Having Jurisdiction**.

CONSTITUTION of the COMMONWEALTH OF PENNSYLVANIA, Section 31:

Delegation of Certain Powers Prohibited

“The **General Assembly shall not delegate to any special commission, private**

**corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or perform any municipal function whatever.**”

44. Question/ Data request

Columbia recognizes Pennsylvania Law Title 18 CHAPTER 49

FALSIFICATION AND INTIMIDATION§ 4912. Impersonating a public servant. -- A person commits a misdemeanor of the second degree if he 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. Correct?

The NiSource Audit Committee recognizes that Columbia should not be representing itself as **Authority Having Jurisdiction. Correct?**

45. Question/ Data request

On what basis does Columbia have authority over private property owners and their plumbing contractors when title to natural gas passes at the curb valve? Granted Columbia has access to its property located on private property which is primarily limited to the meter and the meter hanger.

46. Question/ Data request

When Columbia Gas employees work outside of Columbia’s distribution system, the associated cost is unreasonable thus unallowable. Correct?

47. Question/ Data request

Please review the **Form 1-C-3363, “Operator Qualification Card”, is this an official from authorized by NiSource or Columbia’s management? Who approved this form.**

48. Question/ Data request

Has this form been brought to the attention of the NiSource Audit Committee? If so, what were the conclusions?

49. Question/ Data request

Does the Audit Committee recognize various irregularities on this form? Does this look like an official NiSource management-approved internal form with its red various flags?

- No logo of Columbia Gas or NiSource
- An “operator” is a gas company, not a plumbing contractor
- This is not a controlled form
- Private contractors, not employed by Columbia do not work on service lines

– they can work on customer’s service lines

- The first sentence “I attest ... fully comply with all ...Columbia Gas procedures (How can an individual attest to compliance to documents of which they do not have access?

- 49 CFR 192, Subpart N – is 49 CFR Part 192, Subpart N - **Qualification of Pipeline Personnel**. A private individual does not work on gas pipelines owned to be a gas utility. – Deceptive

- This form has been used for almost 20 years.
- How can the document be classified as PROPRIETARY when it is available

on the internet?

- The **WARNING! About Fraudulent or misuse ...**

50. Question/ Data request

Does the Audit Committee condone the use and requirements in this document including requiring private plumbers to take their time, pay money, take blood tests and DOT training of 49 CFR Transportation, 192 TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS, when transportation of gas ends upon delivery at the property line and 49 CFR 192 does not apply to non-transportation issues on private property?

Question 37 through 50 all refer to a plumber’s guide. Columbia objects to these questions because they are the subject of a pending complaint case before the Commission involving Mr. Culbertson and Columbia. That complaint is separate from this case. It would be improper to use this base rate proceeding as a means for obtaining discovery that involves the separate complaint case. Columbia further objects to these questions because they are argumentative, irrelevant to the base rate proceeding and call for legal arguments and conclusions.

Questions 51 and 52 provide:

**Reasonable assurance of effective internal controls based upon the COSO Internal Control-Integrated Framework**

**These interrogatories are to be directed to the Chair of the NiSource Board's Audit Committee.**

**51. Question/ Data request**

NiSource received from Deloitte, in their 2020 audit, as expressed in the NiSource 10K, reasonable assurance of internal controls under compliance with financial reporting per General Accepted Accounting Principles. The COSO framework is an integrated framework meaning – operations and compliance impact financials. Does NiSource Audit Committee have reasonable assurance of internal controls under effective and efficient operations – including safeguarding assets, reliable non-financial reporting, and compliance with laws, regulations, standards, tariff... sufficient to warrant the public trust in a \$98,300,000 rate case? If so please provide adequate substantiation for such.

**52. Question/ Data request**

If the NiSource Audit Committee does not believe there is reasonable assurance of effective and efficient operations, (based upon CPA rate base per customer is 2.7 times more than that in Indiana and 2.6 times that of Ohio. Does not have reasonable assurance of reliable reporting of non-financial issues – that audit of abandonment did not appear to catch the differences in Pennsylvania regulations and issues with the abandonment of customer's service lines. There is probably not reasonable assurance of compliance with laws, regulations ... considering the issues with the CPA Plumbers Guide. Then the \$98,300,000 annual rate increase is not sufficiently warranted at this time by those who have fiduciary responsibility for the corporation. Agree?

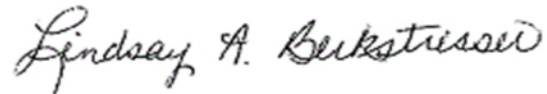
Objection: Columbia objects to Questions 51 and 52 because they are irrelevant.

The Presiding Administrative Law Judge has already ruled that the information sought in these questions is irrelevant to this base rate case. *See First Interim Order Addressing Complainant Richard C. Culbertson's Motion to Compel Discovery* (June 25, 2021). Additionally, Question 52 calls for a legal conclusion.

### **III. CONCLUSION**

WHEREFORE, Columbia Gas of Pennsylvania, Inc. specifically objects to Richard C. Culbertson Set V, Questions 1-7, 9-22, 24, 26, and 29-52 because they are vague, untimely and unreasonable and because they seek information that is (1) irrelevant and unlikely to lead to the discovery of admissible evidence; (3) outside the scope of this proceeding; and (4) legal interpretations, strategy and argument.

Respectfully submitted,



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

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

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

Date: July 6, 2021

## VERIFICATION

I, Nicole Paloney, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: July 22, 2021

Nicole Paloney  
Nicole Paloney  
Director of Rates and Regulatory Affairs  
Columbia Gas of Pennsylvania, Inc.