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August 25, 2021

VIA ELECTRONIC FILING

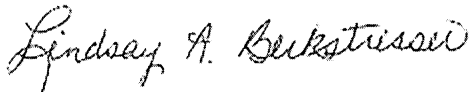
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Attached for filing is the Main Brief of Columbia Gas of Pennsylvania, Inc. ("Columbia" or "Company") 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

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant).

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A handwritten signature in cursive script, reading "Lindsay A. Berkstresser". The signature is written in dark ink and is positioned above a horizontal line.

Lindsay A. Berkstresser

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No.	R-2021-3024296
Office of Consumer Advocate	:		C-2021-3025078
Office of Small Business Advocate	:		C-2021-3026377
Columbia Industrial Intervenors	:		C-2021-3025600
Pennsylvania State University	:		C-2021-3025775
Richard C. Culbertson	:		C-2021-3026054
Ronald Lamb	:		C-2021-3027217
	:		

v.

Columbia Gas of Pennsylvania, Inc.

**MAIN BRIEF OF
COLUMBIA GAS OF PENNSYLVANIA, INC.**

TO ADMINISTRATIVE LAW JUDGE MARK A. HOYER:

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I. INTRODUCTION

Columbia Gas of Pennsylvania, Inc. (“Columbia” or the “Company”) is a “public utility” and “natural gas distribution company” (“NGDC”) as those terms are defined in Sections 102 and 2202 of the Public Utility Code, 66 Pa.C.S. §§ 102 and 2202. Columbia provides natural gas sales, transportation, and/or supplier of last resort services to approximately 436,000 retail customers in portions of 26 counties of Pennsylvania. (Columbia St. No. 1, pp. 3-4)

In this proceeding, Columbia requests Pennsylvania Public Utility Commission (“Commission”) approval of a base rate increase, with an anticipated effective date of December 29, 2021, which is the effective date of rates under the Commission’s May 6, 2021 Suspension Order. As will be set forth in a Joint Petition for Settlement (“Settlement”) to be filed simultaneously with the Reply Brief in this proceeding, Columbia, the Commission’s Bureau of Investigation and Enforcement (“I&E”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), Columbia Industrial Intervenors (“CII”), the Pennsylvania State University (“PSU”), Shipley Choice, LLC and the Retail Energy Supply Association (“Shipley/RESA”), Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (“CAUSE-PA”), and the Pennsylvania Weatherization Providers Task Force (“PA Task Force”) (collectively, the “Joint Petitioners”) have achieved settlement on all issues in this case. The Joint Petitioners have agreed to a base rate increase, an allocation of that increase to the rate classes, and the rate design for all rate classes to recover the allocated portions of the rate increase to such classes. Other issues raised by the Company’s filing and by intervening parties also have been resolved. Columbia’s explanation of why the Settlement is in the public interest and should be approved will be contained in Columbia’s Statement in Support of the Joint Petition for Settlement to be filed by September 7, 2021.

However, Mr. Richard C. Culbertson, an individual complainant, has raised issues outside the normal scope of a base rate proceeding. Columbia and Mr. Culbertson were unable to reach a settlement on those issues, and Mr. Culbertson's issues are reserved for litigation. Columbia will address the issues reserved for litigation in this Main Brief and in accordance with the briefing schedule set forth in this proceeding. With respect to the issues reserved for litigation, the crux of Mr. Culbertson's arguments pertains to Columbia's disconnection of an inactive service line in 2013 at 1608 McFarland Road, Pittsburgh, Pennsylvania, a property that was subsequently acquired by Mr. Culbertson. As Columbia will explain in this Main Brief, issues pertaining to Columbia's disconnection of the inactive service line at this property have been fully litigated in a separate complaint proceeding that is currently pending before the Commission, and therefore, these issues are not appropriate for disposition by Administrative Law Judge Hoyer ("ALJ Hoyer") and the Commission in this base rate case. Mr. Culbertson also alleges that Columbia improperly disconnected an inactive service line to a property owned by another former Columbia customer who testified at a public input hearing held in this proceeding. However, as Columbia witness Mr. Anstead explained and as Columbia will further explain in this Main Brief, Columbia complied with all applicable laws and regulations and its Commission-approved tariff when it disconnected the inactive service line at the former customer's residence. Finally, Mr. Culbertson has made various sweeping allegations regarding Columbia's audits, internal controls, rates, and safety. These allegations appear to be presented as contentions in support of his objection to Columbia's process for disconnection of inactive service lines. As Columbia will explain herein, Mr. Culbertson's allegations are inaccurate and are not supported by law or substantial evidence. Therefore, Mr. Culbertson's Complaint against this base rate proceeding should be dismissed with prejudice.

A. Statement Of The Case

On March 20, 2021, Columbia filed the above-captioned 2021 Base Rate Filing, together with Supplement No. 325 to its Tariff Gas – Pa. P.U.C. No. 9, responses to Commission filing requirements and standard data requests, and supporting direct testimony and exhibits. In the 2021 Base Rate Filing, Columbia proposed new tariff rules and regulations and proposed increased rates designed to produce an overall revenue increase of approximately \$98.3 million annually based upon a pro forma fully projected future test year (“FPFTY”) ending December 31, 2022.

Formal Complaints were filed by OCA, OSBA, CII, PSU, Ronald Lamb and Richard C. Culbertson (hereinafter “Culbertson 2021 Rate Complaint”). Petitions to Intervene were filed by CAUSE-PA, Shipley/RESA, and PA Task Force. I&E filed a Notice of Appearance.

In an Order entered May 6, 2021, the Commission initiated an investigation of Columbia’s proposed general rate increase. Supplement No. 325 was suspended by operation of law pursuant to Section 1308(d) of the Public Utility Code, 66 Pa.C.S. § 1308(d), until December 29, 2021, unless permitted by Commission order to become effective at an earlier date. On May 14, 2021, Columbia filed with the Commission Supplement No. 328 to Tariff Gas Pa. PUC No. 9, suspending Columbia’s Supplement No. 325 until December 29, 2021.

An initial Prehearing Conference was held on May 17, 2021. At the prehearing conference, the ALJ established the litigation schedule. The ALJ also set forth discovery rules, which included shorter response times than those provided in the Commission’s regulations. *See* 52 Pa. Code §§ 5.341 *et seq.* On May 21, 2021, the ALJ issued a Prehearing Order that confirmed the litigation schedule established at the Prehearing Conference.

Public Input hearings were held on June 14, 2021 and June 16, 2021.

In accordance with the litigation schedule, various parties filed direct, rebuttal, surrebuttal, and rejoinder testimony. Specifically, Columbia and Mr. Culbertson submitted testimony regarding the issues reserved for litigation.

The Joint Petitioners held numerous settlement discussions over the course of this proceeding. As a result of those discussions and the efforts of the Joint Petitioners to examine the issues in the proceeding, a settlement in principle of all issues, excluding Mr. Culbertson's issues, was achieved by the Joint Petitioners, thereby negating the need for the scheduled evidentiary hearings on most issues. An evidentiary hearing was held on August 4, 2021, for the purpose of admitting the evidence into the record and allowing Mr. Culbertson to conduct cross-examination of Columbia's witness, Mr. Kempic.

The Main Brief on Mr. Culbertson's issues is being filed in accordance with the procedural schedule adopted by the ALJ. Columbia's proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs with respect to Mr. Culbertson's issues are set forth in Appendices A, B and C, respectively, to this Main Brief.

B. Legal Standards And Burden Of Proof

Under the Public Utility Code, rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301 and 1304.

A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. 66 Pa.C.S. § 315(a); *Pa. P.U.C. v. Aqua Pennsylvania, Inc.*, Docket No. R-00038805, 236 PUR 4th 218, 2004 Pa. PUC LEXIS 39 (August 5, 2004). However, a public utility, in proving that its proposed rates are just and reasonable, does not have the burden to defend affirmatively claims made in its filing that no other party has questioned. As the Commonwealth Court has explained:

While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.

Allegheny Center Assocs. v. Pa. P.U.C., 570 A.2d 149, 153 (Pa. Cmwlth. 1990).

Although the ultimate burden of proof does not shift from the utility seeking a rate increase, a party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *See, e.g., Pa. P.U.C. v. PECO*, Docket No. R-891364, *et al.*, 1990 Pa. PUC LEXIS 155 (May 16, 1990); *Pa. P.U.C. v. Breezewood Telephone Company*, Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (January 31, 1991). In addition, tariff provisions previously approved by the Commission are deemed just and reasonable and, therefore, a party challenging a previously approved tariff provision bears the burden to demonstrate that the Commission's prior approval is no longer justified. *See, e.g., Pa. P.U.C. v. Philadelphia Gas Works*, Docket Nos. R-00061931, *et al.*, 2007 Pa. PUC LEXIS 45 at *165-68 (September 28, 2007) (adopting the ALJ's discussion on burden of proof).

Further, a party who raises an issue that is not included in a public utility's general rate case filing bears the burden of proof. For example, in *Pa. P.U.C. v. Metropolitan Edison Company, et al.*, Docket Nos. R-00061366, *et al.*, 2007 Pa. PUC LEXIS 5 (January 11, 2007), a party offered proposals to have the companies incur expenses not included in their filings. The ALJ held that, as the proponent of a Commission order with respect to its proposals, the party bears the burden of proof as to proposals that are not included in the companies' filings. The Commission agreed and adopted the ALJ's conclusion that Section 315(a) of the Public Utility Code cannot reasonably be read to place the burden of proof on the utility with respect to an issue the utility did not include in its general rate case filing and which, frequently, the utility would oppose. *Id.* at *111-12.

In this case, the issues reserved for litigation relate to claims that were raised by Mr. Culbertson in his individual Complaint. These issues were not presented by Columbia in its filing. As the proponent of a rule or order, Mr. Culbertson bears the burden of proof pursuant to Section 332(a) of the Public Utility Code, 66 Pa. C.S. § 332(a), which provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. It is axiomatic that “[a] litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). The preponderance of the evidence standard requires proof by a greater weight of the evidence. *Cmlwth. v. Williams*, 732 A.2d 1167 (1999). Mr. Culbertson must prove his case by a preponderance of the evidence.

Additionally, any finding of fact necessary to support an adjudication of the Commission must be based on substantial evidence. *Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm’n*, 942 A.2d 274, 281 (Pa. Cmwlth. 2008). Although substantial evidence must be “more than a scintilla and must do more than create a suspicion of the existence of the fact to be established,” *Kyu Son Yi v. State Bd. of Vet. Med.*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted), the “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.” *Allied Mechanical and Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmlwth. 2007) (citation omitted).

If the complainant has established a *prima facie* case, the burden of persuasion shifts to the utility to rebut with evidence that is at a minimum co-equal. *Waldron v. Philadelphia Electric Co.*,

54 Pa. PUC 98 (1980). If the utility presents a sufficient rebuttal, the burden of persuasion then shifts back to the Complainant to rebut the utility's evidence by a preponderance of the evidence. *Poorbaugh v. West Penn Power Company*, 1994 Pa. PUC LEXIS 95. However, the burden of proof remains on the party seeking affirmative relief with the Commission. *Milkie v. Pa. PUC*, 768 A.2d 1217 (Pa. Cmwlth. 2001).

Here, Mr. Culbertson has failed to provide substantial and legally credible evidence in support of his contentions regarding Columbia's rates and service. Mr. Culbertson has also failed to demonstrate with substantial evidence that Columbia violated the Public Utility Code, the Commission's regulations or orders, or the Company's Commission-approved tariff.

II. SUMMARY OF ARGUMENT

The issues reserved for litigation in this case pertain solely to an individual Complaint filed by Mr. Culbertson against the 2021 Base Rate Filing. Much of the basis of Mr. Culbertson's Complaint is his claim that Columbia inappropriately exercises dominion and control over customer-owned service lines. In this respect, Mr. Culbertson is attempting to resurrect his argument from a pending formal complaint proceeding wherein he alleged that Columbia illegally disconnected an inactive service line in 2013 at a property that he now owns and subsequently required Mr. Culbertson to replace the customer-owned portion of the service line before reestablishing service. The issues pertaining to Columbia's disconnection of the inactive service line at Mr. Culbertson's property have been fully litigated in the separate complaint proceeding that Mr. Culbertson filed against Columbia on May 8, 2017, at Docket No. F-2017-2605797. In that case, Columbia and Mr. Culbertson fully litigated the issues pertaining to the inactive service line and ALJ Hoyer rendered an Initial Decision dismissing Mr. Culbertson's Complaint. The matter is currently pending before the Commission on exceptions. Given that the same issues that were previously litigated between Mr. Culbertson and Columbia are already pending before the

Commission, these issues are not appropriate for disposition by ALJ Hoyer and the Commission in this rate case.

Although the primary issue in Mr. Culbertson's Complaint relates to Columbia's disconnection of the inactive service line at Mr. Culbertson's property, Mr. Culbertson also provided testimony regarding another former customer of Columbia, Mr. Michael Hicks, Sr., who testified at one of the public input hearings held in this matter. Mr. Culbertson alleges that Columbia inappropriately disconnected Mr. Hick's inactive service line. However, Mr. Culbertson did not present any evidence that Columbia unlawfully disconnected the inactive service line at Mr. Hick's premises. As Columbia witness Mr. Anstead explained, Columbia acted lawfully and followed the requirements of the Public Utility Code, the Commission's regulations, and the Company's tariff with respect to the disconnection of the inactive service line and the requirements for restoration of service.

Mr. Culbertson also made various broad and unsupported allegations regarding the Company's audits, internal controls, rates, rate base, and safety. These allegations also appear to be tied to his contentions regarding Columbia's disconnection of inactive customer services. However, Mr. Culbertson failed to provide substantial and legally credible evidence to support any of his claims and, therefore, his claims should be rejected. For the reasons explained herein, Mr. Culbertson's Complaint against this base rate proceeding should be dismissed in its entirety and with prejudice.

III. ARGUMENT

A. MR. CULBERTSON IS BARRED FROM RELITIGATING ISSUES PERTAINING TO THE DISCONNECTION OF AN INACTIVE SERVICE LINE AT HIS PROPERTY THAT WERE PREVIOUSLY LITIGATED IN A SEPARATE COMPLAINT PROCEEDING AND ARE CURRENTLY PENDING BEFORE THE COMMISSION.

The primary issue underlying Mr. Culbertson's Complaint in this proceeding is his belief that Columbia improperly disconnected an inactive service line at 1608 McFarland Road, Pittsburgh, Pennsylvania, and subsequently required Mr. Culbertson to replace the customer-owned portion of the service line before restoring service. *See Culbertson 2021 Rate Complaint*, pp. 10, 25, 27-30, 40-46, 50, 53, 59. As explained herein, these same issues were fully litigated in a separate complaint proceeding initiated by Mr. Culbertson against Columbia that is currently pending before the Commission. *See Culbertson v. Columbia Gas of Pennsylvania, Inc.*, Docket No. F-2017-2605797 (Initial Decision October 1, 2019) (hereinafter "Initial Decision on 2017 Customer Complaint").¹ Mr. Culbertson is barred from relitigating in this base rate proceeding the same issues that both parties have already litigated in the separate customer complaint proceeding. Therefore, Mr. Culbertson's claims regarding Columbia's disconnection of an inactive service line at 1608 McFarland Road, Pittsburgh, Pennsylvania are not properly before the Commission in this case.

Mr. Culbertson filed a Complaint against Columbia on May 8, 2017, alleging that Columbia improperly disconnected the service line to a property located at 1608 McFarland Road, Pittsburgh, Pennsylvania after service to the property had been inactive for two years.² *See Initial Decision on 2017 Complaint*, pp. 1, 5. After Columbia disconnected the inactive service line, Mr. Culbertson later acquired the property and sought to restore service. *See Initial Decision on 2017 Complaint*, pp. 6. Columbia advised Mr. Culbertson that to restore service, he must replace the customer portion of the service line, which he owns.³ *See Initial Decision on 2017 Complaint*, at

¹ The Initial Decision is publicly available on the Commission's website at <https://www.puc.pa.gov/pcdocs/1639072.pdf>.

² Mr. Culbertson's Complaint at Docket No. F-2017-2605797 was not consolidated with this base rate proceeding.

³ See 66 Pa. C.S. § 1510.

pp. 6-7. Mr. Culbertson claimed that Columbia improperly required him to replace the customer-owned portion of the inactive service line before re-initiating service. *See* Initial Decision on 2017 Complaint, pp. 8-9.

Mr. Culbertson and Columbia engaged in discovery, provided testimony, and submitted briefs on these issues in the customer complaint proceeding at F-2017-2605797. *See* Initial Decision on 2017 Complaint, pp. 2-4. In its briefs, Columbia explained its position that the Company followed all applicable laws, regulations and its Commission-approved tariff pertaining to the disconnection of inactive service lines and the procedure for restoring service. *See* Initial Decision on 2017 Complaint, pp. 9-12. Therefore, Columbia requested that Mr. Culbertson's Complaint be dismissed. *Id.*

On October 1, 2019, ALJ Hoyer issued the "Initial Decision on 2017 Complaint" dismissing Mr. Culbertson's Complaint because he failed to provide any credible evidence that Columbia unlawfully abandoned the service line at 1608 McFarland Road, Pittsburgh, PA or that Columbia unlawfully required Mr. Culbertson to install a new customer-owned portion of the service line to re-establish gas service. *See* Initial Decision on 2017 Complaint, pp. 9, 13. Mr. Culbertson filed Exceptions to the Initial Decision and Columbia filed Reply Exceptions. The case is currently pending before the Commission for disposition.

Mr. Culbertson seeks to raise the same claims that were fully litigated in his customer complaint case at Docket No. F-2017-2605797 in his Complaint against this base rate proceeding. In his Complaint against this base rate proceeding, Mr. Culbertson specifically references his 2017 Complaint against Columbia in which he alleged that Columbia improperly abandoned the inactive service line at his property. (Culbertson 2021 Rate Complaint, p. 7). In testimony, Mr. Culbertson claimed that Columbia improperly abandoned the inactive service line. (Culbertson St. No. 1, pp.

11-12). The service line claims raised in Mr. Culbertson's Complaint and testimony in this base rate proceeding are identical to the claims raised in the separate complaint proceeding at Docket No. F-2017-2605797.

A party is barred from re-raising the same issues that were previously litigated in another pending case. *See Joint Application of EarthLink, Inc., et al.*, Docket Nos. A-2011-2218791, *et al.* (Order entered April 20, 2011). Specifically, the Commission has held that the doctrine of *lis pendens* precludes a party from raising claims that are currently pending in a separate proceeding if (1) the parties are the same, (2) the case is the same (i.e., the rights asserted are the same), and (3) the relief sought is the same. *Id.* at pp. 10, 16 (barring claim by intervenor in application case that was previously presented by intervenor in separate complaint proceeding) *citing Penox Technologies, Inc. v. Foster Medical Corp.*, 546 A.2d 114, 115 (Pa. Super. Ct. 1988). The *lis pendens* doctrine prevents a party from being forced to defend itself against the same claims twice. *Id.* at p. 17. Moreover, the Commission has previously declined to address matters that are pending before the Commission in a separate proceeding or that the Commission has already adjudicated. *See, e.g., Tarr v. Equitable Gas Company LLC*, Docket No. C-2009-2138511, 2011 Pa. PUC LEXIS 249 (Initial Decision October 12, 2011; Final Order adopting Initial Decision December 9, 2011) (dismissing complaint with prejudice for raising same claims that were raised in previous rate complaint); *Application of Metropolitan Edison Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code*, Docket No. R-00974008, 1998 Pa. PUC LEXIS, 325-26 (June 30, 1998) (declining to open investigation relating to issues that were currently the subject of a pending mediation process before the Commission).

Mr. Culbertson's claims that Columbia improperly disconnected the inactive service line at 1608 McFarland Road, Pittsburgh, Pennsylvania and improperly required Mr. Culbertson to

replace the customer-owned portion of the inactive service line before restoring service are barred by the doctrine of *lis pendens* because these same issues are the subject of a separate pending case before the Commission at Docket No. F-2017-2605797. All three elements of *lis pendens* are met.

First, Mr. Culbertson and Columbia were both parties to the Complaint at Docket No. F-2017-2605797 and are both parties to the complaint case filed against this base rate proceeding. *See* Initial Decision on 2017 Complaint, p. 4; Culbertson 2021 Rate Complaint.

Second, Mr. Culbertson's issues in this case with respect to the service line at 1608 McFarland Road, Pittsburgh, Pennsylvania are the same issues that were presented in Mr. Culbertson's Complaint at Docket No. F-2017-2605797. *See* Initial Decision on 2017 Complaint, pp. 1, 7-12; Culbertson 2021 Rate Complaint, pp. 10, 25, 27-30, 40-46, 50, 53, 59; Culbertson St. No. 1, pp. 11-12, pp. 46-48, 51-53; Culbertson Surrebuttal Testimony, p. 15. These issues have been fully litigated in the separate complaint case at Docket No. F-2017-2605797 and are currently pending before the Commission on exceptions in that case. Thus, the cause of action is the same in both cases, and the Commission can decide Mr. Culbertson's claims based on the full and complete record at Docket No. F-2017-2605797.

Finally, the relief sought in the Complaint at Docket No. F-2017-2605797 is the same relief that Mr. Culbertson seeks with respect to the service line at 1608 McFarland Road, Pittsburgh, Pennsylvania in this base rate proceeding. In the Complaint proceeding at Docket No. F-2017-2605797, Mr. Culbertson requested that the Commission find that Columbia improperly abandoned the inactive service line at 1608 McFarland Road, Pittsburgh, Pennsylvania. *See* Initial Decision on 2017 Complaint, p. 1. In his Complaint against this base rate proceeding, Mr. Culbertson requested that the Commission make the same finding against Columbia. (Culbertson 2021 Rate Complaint, pp. 7, 32, 34; Culbertson St. No. 1, pp. 60-61).

Under the doctrine of *lis pendens*, Columbia cannot be forced to defend itself once again against the same claims that were brought by Mr. Culbertson in the customer complaint case at Docket No. F-2017-2605797. Therefore, Mr. Culbertson's claims that Columbia improperly disconnected the service line to his property at 1608 McFarland Road, Pittsburgh, Pennsylvania and improperly required Mr. Culbertson to replace the portion of the service line that he owns are not properly before the Commission in this rate proceeding, and Mr. Culbertson's claims should be dismissed as they pertain to his Complaint against this base rate proceeding.

B. COLUMBIA ADHERED TO THE PUBLIC UTILITY CODE, THE COMMISSION'S REGULATIONS, AND ITS COMMISSION-APPROVED TARIFF WITH RESPECT TO MR. HICK'S INACTIVE CUSTOMER SERVICE LINE.

In addition to Mr. Culbertson's claims regarding the service line at 1608 McFarland Road, Pittsburgh, Pennsylvania, Mr. Culbertson also provided testimony in response to the public input hearing testimony of another former customer of Columbia, Mr. Michael Hicks, Sr., who testified that he was without gas service at 2 Eighth Street, Uniontown, Pennsylvania because he could not afford to replace the customer-owned portion of his disconnected service line. (Tr. at 101). Based on Mr. Hick's public input hearing testimony, Mr. Culbertson claims that Columbia improperly disconnected Mr. Hick's service line. (Culbertson Surrebuttal Testimony, p. 16). Mr. Culbertson's allegation is incorrect. Columbia adheres to the relevant provisions of the Public Utility Code, the Commission's regulations, and the Company's Commission-approved tariff when determining whether to disconnect an inactive service line and when determining what is required to restore service after a service line has been disconnected. *See* 66 Pa.C.S. § 1510; 52 Pa. Code § 59.36; Columbia Gas of Pennsylvania, Inc. Tariff Gas – Pa. P.U.C. No. 9, Sections 4.9.1, 4.14, 7.1, and 8.1. Columbia applies the same procedure that it is legally required to follow for all customers in

accordance with the Company's tariff. As explained herein and in Columbia witness Mr. Anstead's rebuttal testimony, Mr. Hick's situation is no different.

On April 1, 2010, Mr. Hick's service was terminated. (Confidential Columbia St. No. 14-R, pp. 1-2). Mr. Hick's service remained inactive until November 2014, when Columbia disconnected the inactive service line at 2 Eighth Street, Uniontown, Pennsylvania, pursuant to Section 59.36(2) of the Commission's regulations, which provides as follows:

A public utility shall have a plan for abandoning inactive service lines under 49 CFR 192.727 (relating to abandonment or inactivation of facilities) as of May 1, 1986 and subsequent amendments thereto which have been ratified by the Commission under § 59.33 (relating to safety), and shall have a copy of its plan available for inspection. The plan shall require the following:

(1) Service lines which are not constructed of noncorrosive material or part of a cathodic protection system which have been inactive for 3 months and for which there is no prospect of reuse shall be scheduled for abandonment under 49 CFR 192.727 as of May 1, 1986 and subsequent amendments thereto which have been ratified by the Commission under § 59.33, as soon as practicable but not later than 6 months after it has been determined there is no prospect for reuse.

(2) Service lines which have been inactive for 3 months and for which there is a reasonable prospect of future use shall be shut off under 49 CFR 192.727(d) as of May 1, 1986 and subsequent amendments thereto which have been ratified by the Commission under § 59.33. A review of the status of inactive lines shall be made annually, at periods not exceeding 15 months. Lines which no longer qualify for retention shall be abandoned under paragraph (1).

52 Pa. Code § 59.36(2). In accordance with this regulation, Columbia regularly reviews inactive service lines throughout its entire service territory and monitors those inactive service lines in accordance with the time periods provided for in the regulation. (Tr. at 220). If Columbia determines that service is not reasonably capable of being restored, Columbia implements an order to disconnect the service line. (Tr. at 220). When Columbia disconnects an inactive service line, it physically cuts the connection between the service line and Columbia's main line, purging the

service line of gas. (Confidential Columbia St. No. 14-R, p. 3). Once a service line has been physically disconnected by severing the connection to Columbia's main, Columbia will not re-introduce service through the disconnected service line. (Confidential Columbia St. No. 14-R, p. 4). As Columbia witness Mr. Kempic explained at the evidentiary hearing held in this matter, Columbia does not re-introduce service through a service line that has been physically disconnected from Columbia's main because it is not safe to do so. (Tr. at 213-14, 218-19).

In December 2015, thirteen months after the service line had been disconnected, Mr. Hicks contacted Columbia to request that his service be restored. (Confidential Columbia St. No. 14-R, p. 3). To restore service, Mr. Hicks would have needed to replace the customer-owned portion of the service line because under Columbia's Tariff, customers in Fayette County, where Mr. Hicks resides, own the portion of the service line that is beyond Columbia's point of delivery at their premises. The point of delivery is designated as the curb valve or, if there is no curb valve, the property line. (Confidential Columbia St. No. 14-R, p. 3). *See also* Columbia Gas of Pennsylvania, Inc. Tariff Gas – Pa. P.U.C. No. 9, Sections 4.9.1, 4.14, 7.1, and 8.1. Section 4.9.1 of Columbia's Tariff provides that, "[t]he customer shall install at his expense the service line to the point of connection designated by the Company."⁴ These provisions of Columbia's tariff comply with Section 1510 of the Public Utility Code, which provides as follows:

When connecting the premises of the customer with the gas utility distribution mains, the public utility shall furnish, install and maintain the service line or connection according to the rules and regulations of the filed tariff. A public utility shall not be authorized or required to acquire or assume ownership of any customer's service line. A public utility shall not be authorized or required to

⁴ The Commission has granted limited waivers to these tariff provisions where service line replacement must be done in conjunction with a main replacement project. *See Petition of Columbia Gas of Pennsylvania, Inc. for Limited Waivers of Certain Tariff Rules Related to Customer Service Line Replacement*, Docket No. P-00072337 (Order entered May 19, 2008). Those waivers do not apply to Mr. Hick's situation because the need to replace the service line at 2 Eighth Street, Uniontown, Pennsylvania was not related to a main replacement project. (Confidential Columbia St. No. 14, p. 3).

acquire or assume ownership of any pipe or appurtenances installed after the effective date of this section between its main and the meter unless the utility would have been authorized or required to do so according to the rules and regulations of its filed tariff if the pipe or appurtenances had been installed on or before the effective date of this section. Maintenance of service lines shall be the responsibility of the owner of the service line.

66 Pa.C.S. § 1510. Moreover, “[i]t is well settled that the provisions of a Commission-approved tariff have the force and effect of law and are binding on both the utility and its customers. Tariff provisions approved by the Commission are *prima facie* reasonable.” *Escalera v. Columbia Gas of Pennsylvania, Inc.*, Docket No. C-2013-2368514, 2013 Pa. PUC LEXIS 787 (Initial Decision *aff’d* by Opinion & Order June 5, 2014) (citing *Stiteler v. Bell Telephone Co. of Pennsylvania*, 379 A.2d 339 (Pa. Cmwlth. 1977); *Brockway Glass Co. v. Pa. Pub. Util. Comm’n*, 437 A.2d 1067 (Pa. Cmwlth. 1981); *Lynch v. Pa. Pub. Util. Comm’n*, 594 A.2d 816 (Pa. Cmwlth. 1991).

In the context of Mr. Culbertson’s surrebuttal testimony regarding Mr. Hicks, Mr. Culbertson requested that “[t]hose who Columbia harmed with improper abandonment need to be made whole.” (Culbertson Surrebuttal Testimony, p. 16). Not only does Mr. Culbertson lack standing to request relief on behalf of another former customer to which he has no relationship,⁵ there is no basis for Mr. Culbertson’s requested relief because Columbia did not act unlawfully. Columbia followed the applicable provisions of the Public Utility Code, the Commission’s regulations, and the Company’s Commission-approved tariff when it disconnected the inactive service line at Mr. Hick’s residence and when the Company subsequently informed Mr. Hicks that he would be required to replace the customer-owned portion of the service line before restoring

⁵ “Generally, the Commission has held that a person or entity has standing when the person or entity has a direct, immediate and substantial interest in the subject matter of a proceeding.” *Margaret Katz and Alan Katz on behalf of Michael Katz v. PPL Electric Utilities Corporation*, Docket No. F-2010-2211384, 2011 Pa. PUC LEXIS 825, *16-17 (Initial Decision February 17, 2011; Final Order June 22, 2012) (dismissing complaint for lack of standing because complainants were not customers and did not reside at the service address that was the subject of the complaint) (citations omitted).

gas service. Therefore, Mr. Culbertson's claims that Columbia improperly disconnected Mr. Hick's service line should be dismissed, and his requested relief should be denied.

C. MR. CULBERTSON'S BALD ALLEGATIONS REGARDING COLUMBIA'S AUDITS, INTERNAL CONTROLS, RATES, RATE BASE, AND SAFETY ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

1. Mr. Culbertson's allegations are insufficient to support a finding of fact by the Commission because they are not based on substantial and legally credible evidence.

While the crux of Mr. Culbertson's arguments in this proceeding pertains to the disconnection of an inactive customer service line at Mr. Culbertson's property, Mr. Culbertson has also set forth various general and unsupported allegations regarding Columbia's rates and service. As explained in the following sections, Mr. Culbertson's claims should be rejected because he has failed to support any of his claims with substantial and legally credible evidence, as required to support a finding by the Commission. *See Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704); *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

2. Mr. Culbertson has not provided substantial evidence to support his claims regarding audits.

Mr. Culbertson's claims regarding audits are without merit and should be dismissed. According to Mr. Culbertson, "[t]he problem is the Commission does not investigate through Generall [sic] Accepted Government Audits – if you do not look you do not find." (Culbertson St. No. 1, p. 15). Mr. Culbertson broadly accuses the Commission of not conducting adequate audits of Columbia. However, Mr. Culbertson fails to recognize that Columbia is subject to regular audits by the Commission, which are publicly available. *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>). Mr. Culbertson alludes to his belief

that an audit would reveal some wrongdoing. (Culbertson St. No. 1, p. 15). However, he does not provide any evidence whatsoever to support this claim. Mr. Culbertson further ignores the multiple internal audits that the Company undertakes on a routine basis. Columbia Exh. 13, Sch. 4. Mr. Culbertson's testimony is pure speculation and is not sufficient evidence to support a finding by the Commission. Testimony consisting of guesses, conjecture, or speculation cannot prove a party's claims. *See Cuthbert v. City of Philadelphia*, 417 Pa. 610, 209 A.2d 261 (1965); *B & K Inc. v. Commonwealth Dep't of Highways*, 398 Pa. 518, 159 A.2d 206 (1960).

Mr. Culbertson also claims that "Columbia and the Commission do not use the requirements and guidance of the GAO [Government Accountability Office] Yellow Book." (Culbertson St. No. 1, p. 16). However, there is no requirement in the Public Utility Code or the Commission's regulations and orders that Columbia use the GAO Yellow Book, and Columbia has no authority to dictate to the Commission how the Commission undertakes utility audits. Pursuant to Section 516(a) of the Public Utility Code, 66 Pa.C.S. § 516(a), the Commission establishes the procedures for audits of the operations of utilities and has established an entire bureau dedicated to undertaking financial and management audits of all utilities under its jurisdiction. Therefore, this argument is irrelevant.

3. Mr. Culbertson has not provided substantial evidence to support his claims regarding internal controls.

Mr. Culbertson's claims regarding internal controls are not supported by substantial evidence. Mr. Culbertson makes general allegations that there is a lack of adequate internal controls within Columbia. (Culbertson St. No. 1, pp. 2, 17-21, 36). For example, Mr. Culbertson alleges that "Columbia Gas of Pennsylvania should not be rewarded for not having effective internal controls that result in waste, fraud, and abuse." (Culbertson St. No. 1, p. 19). However, Mr. Culbertson did not provide any evidence to support these claims. There is absolutely no

evidence of record to support Mr. Culbertson's allegations of "waste, fraud, and abuse." (Culbertson St. No. 1, p. 19).

Based on what Mr. Culbertson perceives as a lack of adequate internal controls, he claims that Columbia's rates cannot be just and reasonable. (Culbertson St. No. 1, p. 2). Specifically, Mr. Culbertson states that, "[c]ustomers have a right to assurance that Columbia has adequate internal controls and that the rates are just and reasonable and are not unlawful." (Culbertson St. No. 1, p. 20). However, aside from his broad allegations that Columbia's internal controls are insufficient, Mr. Culbertson has failed to provide any credible evidence to support his claims. Such bald assertions, personal opinions, or perceptions do not constitute evidence and do not support Mr. Culbertson's theory that the rates produced by this rate case will not be just and reasonable. *See Mid-Atlantic Power Supply Ass'n v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000) (citation omitted).

Mr. Culbertson also alleges that "Columbia does not have effective integrated internal controls and audits to assure unreasonable costs do not get into the rate base, as the parent claims in their SEC 10-K reports." (Culbertson St. No. 1, p. 24). However, in a footnote to his testimony, Mr. Culbertson then quotes a portion of the NiSource Inc. 10-K Report, which contradicts Mr. Culbertson's claim and acknowledges that NiSource maintains effective controls over financial reporting based on the criteria established in the Internal Control – Integrated Framework (2013) Committee of Sponsoring Organizations ("COSO") of the Treadway Commission. (Culbertson St. No. 1, p. 24, n. 19 citing NiSource Inc. 10-K Report for the fiscal year ended December 31, 2020, pp. 118-19). Moreover, Mr. Culbertson also has not identified any costs that are "unreasonable."

Mr. Culbertson's criticisms regarding internal controls are not supported by substantial evidence and should be rejected.

4. Mr. Culbertson's claim that Columbia's rates are not just and reasonable based on the size of the Company's rate base is not supported by substantial evidence.

Mr. Culbertson claims that Columbia's rates are not just and reasonable based on the size of the Company's rate base. (Culbertson St. No. 1, p. 19). Mr. Culbertson did not provide any relevant evidence to support his claim. Instead, Mr. Culbertson referenced a chart that provides information on the rate bases of Columbia and its sister companies in Kentucky, Maryland, Ohio, Virginia and Indiana, which are owned by the same parent company, NiSource Inc. (Culbertson St. No. 1, pp. 18, 58). Based on this chart, Mr. Culbertson claims that "[t]his chart alone is justification not to grant this rate increase for Columbia Gas of Pennsylvania. This chart alone should prompt the Commission to order an external independent performance, forensic and financial audit of Columbia Gas of Pennsylvania, which I am requesting." (Culbertson St. No. 1, p. 19). Mr. Culbertson stated that, "[i]t is in the public interest to find out why the rate base and rates are so much higher in Pennsylvania than in NIPSCO (Indiana), Ohio, and Kentucky." (Culbertson St. No. 1, p. 19). He also claimed that "[t]he variance of rate base per customer for CPA in comparison to neighboring sister companies of NiSource makes Columbia Gas of Pennsylvania's financials and operations suspect." (Culbertson St. No. 1, p. 20).

The referenced chart provides no support for Mr. Culbertson's arguments. The rate bases of Columbia's sister utilities in other states are irrelevant to the rate base of Columbia. There are many reasons why the size of a utility's rate base in another state would be different from the size of the rate base of Columbia. For example, the size of a utility's service territory, the number of customers served, and the location/density of those customers within the utility's service territory would all impact the size of the utility's rate base. Differing state and municipal laws regarding

replacement of utility facilities also can meaningfully affect the cost of replacement facilities, as Columbia's witness Mr. Brumley explained. (Columbia St. No. 7, pp. 13-24). Simply claiming that Columbia's rate base is larger than the rate base of its sister utilities in other states provides no support for Mr. Culbertson's criticisms of Columbia's rates.

Mr. Culbertson did not provide substantial evidence to support his arguments that Columbia's rate base or rates are unreasonable. Columbia witness Ms. Shultz provided detailed information supporting Columbia's rate base. (Columbia St. No. 6; Columbia Ex. Nos. 8 and 108). Further, Columbia witness Mr. Brumley provided additional information concerning Columbia's ongoing efforts to replace at-risk pipe in order to provide a safe and reliable distribution system. (Columbia St. No. 6, pp. 1-13). Mr. Culbertson did not challenge this information. Therefore, Mr. Culbertson's allegations regarding Columbia's rates should be rejected, and his requested relief should be denied.

5. Mr. Culbertson's allegations regarding safety are not supported by substantial evidence.

Mr. Culbertson presented general and unsupported allegations regarding the safety of Columbia's distribution system. (Culbertson St. No. 1, pp. 54-57). Rather than presenting evidence to support his claims, Mr. Culbertson relies on his own unsupported theories and broad assertions regarding Columbia's safety practices. (Culbertson St. No. 1, pp. 54-57). Specifically, Mr. Culbertson alleges that Columbia has not taken the implementation of American Petroleum Institute Recommended Practice 1173— Pipeline Safety Management Systems ("API RP 1173") seriously, and as a result, Columbia has put customers at risk. (Culbertson St. No. 1, pp. 56-57; Culbertson Surrebuttal Testimony, pp. 5-6). Mr. Culbertson has provided no support for his claim, and it is inaccurate. Columbia witness Mr. Anstead explained as follows with respect to Columbia's implementation of API RP 1173:

The API 1173 Standard for Pipeline Safety Management Systems is only a recommended practice, but Columbia and NiSource have chosen to pursue the adoption and implementation of a Safety Management System (“SMS”). As an early adopter of deploying an SMS, Columbia has aggressively educated the entire workforce and key contractor resources on what it is and why we are using API 1173 as our guideline to measure progress. We have implemented a Corrective Action Program (“CAP”) with all employees and key contractor resources that enables a more robust and formal process for identifying risks and developing actions to reduce risk. We have also established a new governance model to review and prioritize identified risks. The building of additional capacities within our SMS are underway and will continue, centered in process safety improvements, asset management improvements and safety culture improvements.

Columbia St. No. 14, p. 24. Columbia witness Mr. Kempic also testified that Columbia is pursuing implementation of API RP 1173. (Columbia St. No. 1-R, pp. 9-10). In addition, Mr. Kempic explained as follows with respect to Columbia’s enhanced safety measures:

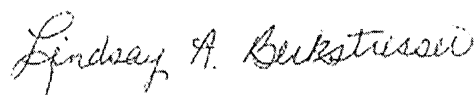
The Company continues to focus its efforts and resources on the top risks to the Company’s systems, and is expanding focus in several critical areas to maintain and enhance its operational capabilities. These efforts are supported by NiSource’s continued implementation of Safety Management System (“SMS”) across its six-state footprint. NiSource’s SMS focuses on leveraging employees who are performing the work to identify risks so that the risks can be mitigated. In addition, Columbia’s SMS provides a proven structure to continually assess and improve processes and procedures to keep employees, contractors, customers, and the public safe. As Columbia’s SMS identifies risks, the Company uses an objective risk-based approach to prioritize the mitigation efforts which need to be undertaken as well as the sequencing of those efforts to provide the highest risk reduction at the best possible cost to the customer.

(Columbia St. No. 1, pp. 8-9). There is no record evidence that Columbia’s distribution system is unsafe or that Columbia has acted in an unsafe manner. Therefore, Mr. Culbertson’s arguments regarding safety should be rejected.

IV. CONCLUSION

WHEREFORE, for all the foregoing reasons, Columbia Gas of Pennsylvania, Inc. respectfully requests that the ALJ and Commission reject Mr. Culbertson's arguments and dismiss his Complaint at Docket No. C-2021-3026054 with prejudice.

Respectfully submitted,



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Appendix A

PROPOSED FINDINGS OF FACT

1. Columbia provides natural gas sales, transportation, and/or supplier of last resort services to approximately 436,000 retail customers in portions of 26 counties of Pennsylvania. (Columbia St. No. 1, pp. 3-4).

2. Mr. Culbertson filed a Complaint against Columbia on May 8, 2017, at Docket No. Docket No. F-2017-2605797, alleging that Columbia improperly disconnected the service line to his property located at 1608 McFarland Road, Pittsburgh, Pennsylvania. (Culbertson St. No. 1, pp. 11-12).

3. On October 1, 2019, ALJ Hoyer issued an Initial Decision at Docket No. Docket No. F-2017-2605797 dismissing Mr. Culbertson's Complaint. *Culbertson v. Columbia Gas of Pennsylvania, Inc.*, Docket No. F-2017-2605797 (Initial Decision October 1, 2019).

4. In his Complaint against the base rate proceeding at Docket No. C-2021-3026054, Mr. Culbertson alleges that Columbia improperly disconnected the service line to his property located at 1608 McFarland Road, Pittsburgh, Pennsylvania. (Culbertson 2021 Rate Complaint, p. 7).

5. Columbia disconnected the inactive service line at 2 Eighth Street, Uniontown, Pennsylvania in November 2014 after it had been inactive for over three years. (Confidential Columbia St. No. 14-R, pp. 2-3).

6. When Columbia disconnects an inactive service line, it physically cuts the connection between the service line and Columbia's main line, purging the service line of gas. (Confidential Columbia St. No. 14-R, p. 3).

7. Columbia does not re-introduce service through a service line that has been physically disconnected from Columbia's main because it is not safe to do so. (Tr. at 213-14, 218-19).

8. Customers located in Fayette County, Pennsylvania, own and are responsible for maintaining the portion of the service line that is beyond Columbia's point of delivery at their premises. The point of delivery is designated as the curb valve or, if there is no curb valve, the property line. (Confidential Columbia St. No. 14-R, p. 3).

9. The Company undertakes multiple internal audits on a routine basis. (Columbia Exh. 13, Sch. 4).

10. Differing state and municipal laws regarding replacement of utility facilities can affect the cost of replacement facilities. (Columbia St. No. 7, pp. 13-24).

11. Columbia is undertaking ongoing efforts to replace at-risk pipe in order to provide a safe and reliable distribution system. (Columbia St. No. 6, pp. 1-13).

12. Columbia and NiSource have chosen to pursue the adoption and implementation of a Safety Management System ("SMS"). (Columbia St. No. 14, p. 24).

Appendix B

PROPOSED CONCLUSIONS OF LAW

1. Rates charged by public utilities must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa.C.S. §§ 1301 and 1304.
2. A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. 66 Pa.C.S. § 315(a); *Pa. P.U.C. v. Aqua Pennsylvania, Inc.*, Docket No. R-00038805, 236 PUR 4th 218, 2004 Pa. PUC LEXIS 39 (August 5, 2004).
3. A public utility, in proving that its proposed rates are just and reasonable, does not have the burden to defend affirmatively claims made in its filing that no other party has questioned. *Allegheny Center Assocs. v. Pa. P.U.C.*, 570 A.2d 149, 153 (Pa. Cmwlth. 1990).
4. A party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *See, e.g., Pa. P.U.C. v. PECO*, Docket No. R-891364, *et al.*, 1990 Pa. PUC LEXIS 155 (May 16, 1990); *Pa. P.U.C. v. Breezewood Telephone Company*, Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (January 31, 1991).
5. Tariff provisions previously approved by the Commission are deemed just and reasonable and, therefore, a party challenging a previously approved tariff provision bears the burden to demonstrate that the Commission's prior approval is no longer justified. *See, e.g., Pa. P.U.C. v. Philadelphia Gas Works*, Docket Nos. R-00061931, *et al.*, 2007 Pa. PUC LEXIS 45 at *165-68 (September 28, 2007).
6. A party who raises an issue that is not included in a public utility's general rate case filing bears the burden of proof. *Pa. P.U.C. v. Metropolitan Edison Company, et al.*, Docket Nos. R-00061366, *et al.*, 2007 Pa. PUC LEXIS 5 (January 11, 2007).

7. A litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

8. The preponderance of the evidence standard requires proof by a greater weight of the evidence. *Cmlwth. v. Williams*, 732 A.2d 1167 (1999).

9. Any finding of fact necessary to support an adjudication of the Commission must be based on substantial evidence. *Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704).

10. Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm'n*, 942 A.2d 274, 281 (Pa. Cmwlth. 2008).

11. Testimony consisting of guesses, conjecture, or speculation cannot prove a party's claims. *See Cuthbert v. City of Philadelphia*, 417 Pa. 610, 209 A.2d 261 (1965); *B & K Inc. v. Commonwealth Dep't of Highways*, 398 Pa. 518, 159 A.2d 206 (1960).

12. Bald assertions and personal opinions or perceptions do not constitute evidence. *See Mid-Atlantic Power Supply Ass'n v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000) (citation omitted).

13. Mr. Culbertson has failed to provide substantial and legally credible evidence to support his claims regarding Columbia's rates and service and has therefore failed to prove his claims by a preponderance of the evidence. *Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704); *Cuthbert v. City of Philadelphia*, 417 Pa. 610, 209 A.2d 261 (1965); *B & K Inc. v. Commonwealth Dep't of Highways*, 398 Pa. 518, 159

A.2d 206 (1960); *Mid-Atlantic Power Supply Ass'n v. Pa. Pub. Util. Comm'n*, 746 A.2d 1196, 1200 (Pa. Cmwlth. 2000) (citation omitted).

14. The Commission establishes the procedures for audits of the operations of utilities. 66 Pa.C.S. § 516(a).

15. A party is barred from re-litigating the same issues that were previously litigated in another pending case. *See Joint Application of EarthLink, Inc., et al.*, Docket Nos. A-2011-2218791, et al. (Order entered April 20, 2011).

16. The *lis pendens* doctrine prevents a party from being forced to defend itself against the same claims twice. *Id.* at p. 17.

17. Mr. Culbertson cannot re-litigate issues regarding the disconnection of his service line at 1608 McFarland Road, Pittsburgh, Pennsylvania in this base rate proceeding that were previously litigated at Docket No. F-2017-2605797. *Joint Application of EarthLink, Inc., et al.*, Docket Nos. A-2011-2218791, et al. (Order entered April 20, 2011).

18. Mr. Culbertson lacks standing to request relief on behalf of another former customer to which he has no relationship. *Margaret Katz and Alan Katz on behalf of Michael Katz v. PPL Electric Utilities Corporation*, Docket No. F-2010-2211384, 2011 Pa. PUC LEXIS 825, *16-17 (Initial Decision February 17, 2011; Final Order June 22, 2012).

19. Columbia is required to regularly review inactive service lines in its service territory and issue disconnection orders in accordance with the Commission's regulations. 52 Pa. Code § 59.36.

20. A public utility is not authorized or required to acquire or assume ownership of any customer's service line. 66 Pa.C.S. § 1510.

21. Columbia acted lawfully when it disconnected the inactive service line at 2 Eighth Street, Uniontown, Pennsylvania and required that the customer replace the customer-owned portion of the service line before service could be reinstated. 66 Pa.C.S. § 1510; 52 Pa. Code § 59.36.

Appendix C

PROPOSED ORDERING PARAGRAPHS

1. Mr. Culbertson's claim that Columbia improperly disconnected the inactive service line at 1608 McFarland Road, Pittsburgh, Pennsylvania is dismissed.
2. Mr. Culbertson's claim that Columbia improperly disconnected the inactive service line at 2 Eighth Street, Uniontown, Pennsylvania is dismissed.
3. Mr. Culbertson's Complaint at Docket No. C-2021-3026054 is dismissed with prejudice, and his requested relief is denied.