

**Via Electronic Mail Only**

The Honorable Mark A. Hoyer  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
Piatt Place  
301 5th Avenue, Suite 220  
Pittsburgh, PA 15222

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

Dear Judge Hoyer:

Enclosed please find a copy of my signed Main Brief.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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

Richard C Culbertson  
1430 Bower Hill Road  
Pittsburgh, PA 15243

August 25, 2021

eFile

# CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of my Main Brief as provided to a party of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below: Dated this 25<sup>th</sup> day of August 2021.

## I. SERVICE BY E-MAIL ONLY

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

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

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

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

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

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

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

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

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

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

Richard C. Culbertson  
1430 Bower Hill Road  
Pittsburgh, PA 15243

Harrison W. Breitman  
Harrison W. Breitman  
Assistant Consumer Advocate  
PA Attorney I.D. # 320580  
E-Mail: [HBreitman@paoca.org](mailto:HBreitman@paoca.org)

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

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

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

Darryl A. Lawrence  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 93682  
E-Mail: [DLawrence@paoca.org](mailto:DLawrence@paoca.org)

Counsel for:  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

Ronald Lamb  
221 Radcliffe Street  
Pittsburgh, PA 15204  
[quraiskyzz@gmail.com](mailto:quraiskyzz@gmail.com)

Dated: August 25, 2021

eFile

**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-
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.

**USING THE COMMON BRIEF OUTLINE**

**II. Introduction**

Statement Of The Case:

On March 30, 2021, Columbia Gas of Pennsylvania, Inc. (Columbia Gas), Tariff No. 9 to become effective May 29, 2021. Tariff No. 9 contains proposed changes in rates, rules, and regulations calculated to produce an overall revenue increase of approximately \$98.3 million per year, an increase in residential customer's bills using 70 therms per month from \$100.77 to \$115.37/month (14.49%).

Columbia Gas stated that the need for the requested increase is driven principally by increases in operating expenses and the return and depreciation requirements associated with ongoing plant additions and replacements under Columbia Gas' accelerated pipeline replacement program.

On May 6, 2021, Pennsylvania Public Utility Commission issues a press release to the public an order regarding rate case Docket Number: R-2021-3024296.<sup>1</sup> These representations<sup>2</sup> to the public included in part: <sup>3</sup>

## PUC to Investigate Rate Increase Request by Columbia Gas

Published on 5/6/2021

Filed under: [Gas](#)

HARRISBURG – The Pennsylvania Public Utility Commission (PUC) [voted today to investigate a rate increase request filed by Columbia Gas of Pennsylvania](#), which provides natural gas distribution services to approximately 436,000 residential, commercial, and industrial customers in portions of 26 counties across western and south-central Pennsylvania.

The Commission voted 4-0 to investigate the request, which was filed on March 30, 2021.

The changes proposed by Columbia Gas would produce an overall revenue increase of approximately \$98.3 million per year. Under this proposal the monthly bill for a residential customer using 70 therms per month would increase from \$100.77 to \$115.37 (14.49%).

Today's action by the Commission suspends the rate increase request for up to seven months and the case will now be assigned to the PUC's Office of Administrative Law Judge for an investigation and recommended decision. More information on the [ratemaking process](#) is available on the Commission's website.

A final decision by the Commission on this rate increase request is due by Dec. 29, 2021.

A rate increase must not merely be provided based upon a utility's request to the Pennsylvania Public Utility Commission.

The Commission stated in its order of May 6, 2021: *Investigation and analysis of the proposed tariff filing, and the supporting data indicate that the proposed changes in rates, rules, and regulations may be unlawful, unjust, unreasonable, and contrary to the public interest. It also*

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<sup>1</sup> <https://www.puc.pa.gov/pcdocs/1702741.doc>

<sup>2</sup> “In Contracts. A statement made by one of two contracting parties to the other, before or at the time of making the contract, in regard to some fact, circumstance, or state of facts pertinent to the contract, which is influential in bringing about the agreement.” The Law Dictionary <https://thelawdictionary.org/representation/> These representations are promises to the public that an administrative law judge will investigate (in good faith using professional standards) to arrive at what are just a reasonable for the benefit of the public and the utility.

<sup>3</sup> <https://www.puc.pa.gov/press-release/2021/puc-to-investigate-rate-increase-request-by-columbia-gas>

*appears that consideration should be given to the reasonableness of the Columbia Gas of Pennsylvania, Inc. 's existing rates, rules, and regulations; THEREFORE,*

**IT IS ORDERED: (In part.)**

*“1. That an investigation on Commission motion be, and hereby is, instituted to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Columbia Gas of Pennsylvania, Inc. 's proposed Supplement No. 325 to Tariff Gas – Pa. P.U.C. No. 9.*

*4. That this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc. 's existing rates, rules, and regulations.*

*5. That the case be assigned to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision.” (What is ordered are deliverables –do 1 and 4 and based upon those investigations and hearings the administrative law judge is to issue a Recommended Decision.*

The only identified individual required to do work for the PUC is the administrative law judge.

For Order 1., have there been investigations to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in what Columbia Gas of Pennsylvania, Inc. has proposed? If an investigation is “to observe or study by close examination and systematic inquiry”<sup>4</sup> of a subject matter, then the answer is **No** and is not specifically identifiable in the proceedings. Some participants have complained, and Columbia Gas has made various assertions, but a comprehensive independent investigation has not occurred to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations. Rate payers deserve to have reasonable assurance that determines the lawfulness, justness, and reasonableness

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<sup>4</sup> Merriam-Webster

of the rates, rules, and regulations contained in Columbia Gas of Pennsylvania, Inc.'s proposed Supplement No. 325 to Tariff Gas – Pa. P.U.C. No. 9.

Paragraph 4. Has there been an investigation that included considerations of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc.'s existing rates, rules, and regulations? **No.**

Paragraph 5. Based upon the lack of reliable, comprehensive, and independent investigations, is it reasonable to believe the Administrative Law Judge can issue a reliable recommendation to the Commission to increase rates in part or in or otherwise? **No**, not without the requirements of orders of Paragraphs 1 and 4 being fulfilled first.

If certain parties of this rate case choose to settle on an agreed compromise in the amount of increase in rates, does that fulfill the orders of the Commission? **No.** A compromise does not provide reasonable assurance<sup>5</sup> to the Commission, the public, governments, investors, and rate payers reasonable assurance that Columbia's proposed, and existing rates, rules, and regulations are lawful, just, and reasonable.

Shall the Commission without adequate evidence of customers being charged just and reasonable rates, provide a settled increase based upon traditional rate-making? **No.**

This rate case requires a redo, as there is no basis to reach an opinion that Columbia's current and proposed rates are just and reasonable. To provide increased rates and charges without due diligence, due process, and not fulfilling the Order of the Commission would be reckless and would not fulfill the requirements of Federal and Pennsylvania law and promises to the public that investigations would occur. The fault of failure to fulfill the requirement of the order lies squarely on Columbia Gas of Pennsylvania. Columbia must provide the proof as a product of their internal controls that fulfills the requirements of the orders of paragraphs 1 and 4.

As provided in the Culbertson Formal Complaint, we still have a **crisis of trust in rate-making.**

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<sup>5</sup> "AU-C Section 200.06 As the basis for the auditor's opinion, GAAS require the auditor to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. Reasonable assurance is a high, but not absolute, level of assurance. It is obtained when the auditor has obtained sufficient appropriate audit evidence to reduce audit risk (that is, the risk that the auditor expresses an inappropriate opinion when the financial statements are materially misstated) to an acceptably low level. Reasonable assurance is not an absolute level of assurance because there are inherent limitations of an audit that result in most of the audit evidence, on which the auditor draws conclusions and bases the auditor's opinion, being persuasive rather than conclusive." <https://www.aicpa.org/research/standards/auditattest/downloadabledocuments/au-c-00200.pdf>

**A. Legal Standards And Burden Of Proof**

- 1.** These multiple legal standards apply to the requirements to achieve just and reasonable rates and are considered conclusion of law that is relevant to this rate case.

“Legal standards mean any law, rule, ordinance, code, administrative resolution, judicial order, order, decree, municipal decree, ruling sentence, the decision by any government authority or any binding agreement with any government authority.” An order of precedence applies.<sup>6</sup> To list some that have significance:

Line	Document
1.	Constitution of United States of America Amendment XIV ... nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”
2.	Constitution of United States ARTICLE VI. Clause 2. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby; anything in the Constitution or Laws of any State to the Contrary notwithstanding.
3.	15 U.S.C. COMMERCE AND TRADE § 717c(a) - Rates and charges JUST AND REASONABLE RATES AND CHARGES All rates and charges made, demanded, received by any natural-gas company for or in connection with the transportation or sale of natural gas subject to the jurisdiction of the Commission, and all rules and regulations [by federal and state regulators] affecting or pertaining to such rates or charges, shall be just and reasonable, and any such rate or charge that is not just and reasonable is declared to be unlawful.
4.	<p>15 U.S.C. COMMERCE AND TRADE §717e. Ascertainment of cost of property</p> <p>(a) Cost of property</p> <p>The Commission may investigate and ascertain the actual legitimate cost of the property of every natural-gas company, the depreciation therein, and, when found necessary for rate-making purposes, other facts which bear on the determination of such cost or depreciation and the fair value of such property.</p> <p>(b) Inventory of property; statements of costs</p> <p>Every natural-gas company upon request shall file with the Commission an inventory of all or any part of its property and a statement of the original cost thereof, and shall keep the Commission informed regarding the cost of all additions, betterments, extensions, and new construction.</p> <p>(June 21, 1938, ch. 556, §6, 52 Stat. 824.)</p>

<sup>6</sup> <https://www.lawinsider.com/dictionary/legal-standards>



5.	<p>15 U.S.C. COMMERCE AND TRADE §717f. Construction, extension, or abandonment of facilities</p> <p>(b) Abandonment of facilities or services; approval of Commission</p> <p>No natural-gas company shall abandon all or any portion of its facilities subject to the jurisdiction of the Commission, or any service rendered by means of such facilities, without the permission and approval of the Commission first had and obtained, after due hearing, and a finding by the Commission that the available supply of natural gas is depleted to the extent that the continuance of service is unwarranted, or that the present or future public convenience or necessity permit such abandonment.</p>
6.	<p>15 U.S.C. § 78m - Periodical and other reports. [publicly traded corporations]</p> <p>“(2)(A) make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer;”</p> <p>2)(B) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that—</p> <p>(i) transactions are executed in accordance with management’s general or specific authorization;</p> <p>(ii) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles (GAAP) or any other criteria applicable to such statements, and (II) to maintain accountability for assets;</p> <p>(iii) access to assets is permitted only in accordance with management’s general or specific authorization; and</p> <p>(iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; ....</p> <p>(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection except as provided in paragraph (5) of this subsection.</p> <p>(5) No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2)”</p> <p>respect to any differences; ....</p> <p>(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection except as provided in paragraph (5) of this subsection.</p> <p>(5) “No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2).</p>
7.	<p>49 U.S.C.A. § § 60101—60503</p> <p>49 U.S.C.A. § 60102. Purpose and general authority</p> <p>(a) PURPOSE AND MINIMUM SAFETY STANDARDS. —</p> <p>(1) PURPOSE. —The purpose of this chapter is to provide adequate protection against risks to life and property posed by pipeline transportation and pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.</p> <p>(2) MINIMUM. —The Secretary shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The standards—</p> <p>(A) apply to owners and operators of pipeline facilities; [Not consumers or private property owners]</p>

8.	2 CFR 200 - UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS (In total)
9.	2 CFR § 200.6 Auditee. Auditee means any non-Federal entity that expends Federal awards which must be audited under Subpart F— Audit Requirements of this part.
10.	<p>2 CFR § 200.7 - Auditor. Auditor means an auditor who is a public accountant or a Federal, state or local government audit organization, which meets the general standards specified in generally accepted government auditing standards (GAGAS) [GAO Yellow Book].</p> <p>(b) Financial statements. The auditor must determine whether the financial statements of the auditee are presented fairly in all material respects in accordance with generally accepted accounting principles. The auditor must also determine whether the schedule of expenditures of Federal awards is stated fairly in all material respects in relation to the auditee’s financial statements as a whole.</p> <p>(c) Internal control. (1) The compliance supplement provides guidance on internal controls over Federal programs based upon the guidance in Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States [GAO Green Book] and the Internal Control—Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).</p> <p>(c)(4) ...However, the auditor must report a significant deficiency or material weakness in accordance with §200.516 Audit findings, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.</p> <p><a href="#">(d) Compliance. (4) The compliance testing must include tests of transactions and such other auditing procedures necessary to provide the auditor sufficient appropriate audit evidence to support an opinion on compliance.[1]</a></p>
11.	2 CFR § 200.50 Generally Accepted Government Auditing Standards (GAGAS). GAGAS means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.
12.	2 CFR § 200.61 Internal controls. Internal controls means a process, implemented by a non-Federal entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories: (a) Effectiveness and efficiency of operations; (b) Reliability of reporting for internal and external use; and (c) Compliance with applicable laws and regulations.
13.	2 CFR § 200.303 Internal controls. The non-Federal entity must: (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

14.	2 CFR § 200.318 General procurement standards. (d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items.
15.	2 CFR § 200.403 Factors affecting allowability of costs. Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards: (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles. [Cost maybe reasonable but necessary, e.g., acceleration of pipeline replacements may be reasonable but not necessary.]
16.	<p>2 CFR § 200 Subpart E—Cost Principles § 200.404 Reasonable costs.</p> <p>A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be given to:</p> <p>(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.</p> <p>(c) <u>Market prices for comparable goods or services for the geographic area.</u></p> <p>[Unallowable costs are unallowable regardless of how presented... as direct or indirect cost.]</p>
17.	2 CFR 200.434 Contributions and donations. (a) Costs of contributions and donations, including cash, property, and services, from the non-Federal entity to other entities, are unallowable.
18.	2 CFR § 200.504 Frequency of audits. Except for the provisions for biennial audits provided in paragraphs (a) and (b) of this section, audits required by this part must be performed annually. Any biennial audit must cover both years within the biennial period.
19.	<p>2 CFR § 200.514 Scope of audit. (a) General. The audit must be conducted in accordance with GAGAS. [attestations and performance audits] The audit must cover the entire operations of the auditee, or, at the option of the auditee, such audit must include a series of audits that cover departments, agencies, and other organizational units that expended or otherwise administered Federal awards during such audit period, provided that each such audit must encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and other organizational unit, which must be considered to be a non-Federal entity. The financial statements and schedule of expenditures of Federal awards must be for the same audit period.</p> <p>(d) Compliance. (1) In addition to the requirements of GAGAS, the auditor must determine whether the auditee has complied with Federal statutes, regulations, and the terms and conditions of Federal awards that may have a direct and material effect on each of its major programs.</p>
20.	<p>17 CFR Commodity and Securities Exchanges § 240.10A-3 - Listing standards relating to audit committees.</p> <p>(b) Required standards –</p>

	<p>(2) ....The audit committee of each listed issuer, in its capacity as a committee of the board of directors, must be directly responsible for the appointment, compensation, retention and oversight of the work of any registered public accounting firm engaged (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the listed issuer, and each such registered public accounting firm must report directly to the audit committee.,</p> <p>(3) Complaints. Each audit committee must establish procedures for:</p> <p>(i) The receipt, retention, and treatment of complaints received by the listed issuer regarding accounting, internal accounting controls, or auditing matters; ...</p>
21.	<p>17 CFR § 270.8b-2 (g)Material. The term “material”, when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent investor [customer] ought reasonably to be informed before buying or selling any security of the particular company [or being satisfied with rates].</p>
22.	<p>18 CFR Part 201 - UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT</p> <p>2.E. General Instructions</p> <p>All amounts included in the accounts prescribed herein for gas plant and operating expenses shall be just and reasonable and any payments or accruals by the utility in excess of just and reasonable charges shall be included in account 426.5, Other Deductions.</p> <p>Income Chart of Accounts</p> <p><b>B. OTHER INCOME DEDUCTIONS</b></p> <ul style="list-style-type: none"> <li>• 426.1 Donations. This account shall include all payments or donations for charitable, social or community welfare purposes.</li> <li>• 426.3 Penalties. This account shall include payments by the company for penalties or fines for violation of any regulatory statutes by the company or its officials.</li> <li>• 426.5 Other deductions.</li> </ul> <p>380 Services. A. This account shall include the cost installed of service pipes and accessories leading to the customers' premises.</p> <p>B. A complete service begins with the connection on the main and extends to but does not include the connection with the customer's meter. A stub service extends from the main to the property line, or the curb stop. [Plumbing beyond the stub service is not part of service line.]</p>

	<p>C. Services which have been used but have become inactive shall be retired from utility plant in service immediately if there is no prospect for reuse, and, in any event, shall be retired by the end of the second year following that during which the service became inactive unless reused in the interim. [Retirement of an asset is an accounting requirement not necessarily an operational event—a retirement does not trigger an abandonment. In GAAP FASB Concept 6 Assets 25. “Assets are probable future economic benefits obtained or controlled by a particular entity as a result of past transactions or events.” There is a difference between less likely than not and “no prospect for reuse”.]</p>
23.	<p>AICPA AU Section 312 Audit Risk and Materiality in Conducting an Audit 09 The term errors refers to unintentional misstatements of amounts or disclosures in financial statements. The term fraud refers to an intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage.</p>
24.	<p>49 CFR § 192.3 Definitions. As used in this part: -Abandoned means permanently removed from service. [This is for utility property and does not apply to customer’s service lines.]</p> <p>-Distribution line means a pipeline other than a gathering or transmission line.</p> <p>-Low-pressure distribution system means a distribution system in which the gas pressure in the main is substantially the same as the pressure provided to the customer.</p> <p>-Operator means a person who engages in the transportation of gas.</p> <p>-Pipe means any pipe or tubing used in the transportation of gas, including pipe-type holders. [A customer’s service line is not used in transportation.]</p> <p>-Pipeline means all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.</p> <p>-Service line means a distribution line that transports gas from a common source of supply to an individual customer...</p> <p>Service line means a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter.</p> <p>[Note this is confusing and poorly written. Pennsylvania made clarifications based upon conditions in Pennsylvania. As a service line is always utility property – only. There is not such property as a customer’s portion of a service line.]</p>
25.	<p>49 CFR § 192.365 Service lines: Location of valves. (a)Relation to regulator or meter. Each service-line valve must be installed upstream of the regulator or, if there is no regulator, upstream of the meter.</p> <p>(b)Outside valves. Each service line must have a shut-off valve in a readily accessible location that, if feasible, is outside of the building.</p>

	<p>(c)Underground valves. Each underground service-line valve must be located in a covered durable curb box or standpipe that allows ready operation of the valve and is supported independently of the service lines. [The Commission prohibits meters to be beneath or in front of windows in regulation.]</p>
26.	<p>49 CFR § 192.513 Test requirements for plastic pipelines. (a) Each segment of a plastic pipeline must be tested in accordance with this section.</p> <p>(b) The test procedure must insure discovery of all potentially hazardous leaks in the segment being tested.</p> <p>(c) The test pressure must be at least 150 percent of the maximum operating pressure or 50 p.s.i. (345 kPa) gage, whichever is greater. (Published August 1970.)</p> <p>[Columbia requires 90 psig.]</p>
27.	<p>49 CFR § 192.727 Abandonment or deactivation of facilities. (a) Each operator shall conduct abandonment or deactivation of pipelines in accordance with the requirements of this section. (c) Except for service lines, each inactive pipeline that is not being maintained under this part must be disconnected from all sources and supplies of gas;</p> <p>(d) Whenever service to a customer is discontinued, one of the following must be complied with:</p> <p>(1) The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator.</p> <p>(2) A mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly.</p> <p>(3) The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed. [This occurs with the removal of the meter.] [Abandonment of a service line is not required.]</p>
28.	<p>49 CFR Part 192, Subpart N - Qualification of Pipeline Personnel</p> <p>§ 192.801 Scope. (a) This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.</p> <p>(b) For the purpose of this subpart, a covered task is an activity, identified by the operator, that: (1) Is performed on a pipeline facility; [A customer's service line is not a pipeline facility 49 CFR § 192.3, utility operators have pipeline facilities.]</p> <p>(2) Is an operations or maintenance task;</p> <p>(3) Is performed as a requirement of this part; and</p> <p>(4) Affects the operation or integrity of the pipeline.</p>
29.	<p>PART 199—DRUG AND ALCOHOL TESTING</p> <p>§199.1 Scope.</p> <p>This part requires operators of pipeline facilities subject to part 192, 193, or 195 of this chapter to test covered employees for the presence of prohibited drugs and alcohol.</p>
30.	<p>Supreme Court 320 U.S. 591 (1944) 64 S.Ct. 281, 88 L.Ed. 333, FEDERAL POWER COMMISSION et al. v. HOPE NATURAL GAS CO. Paragraph 4 -- The Commission established an interstate rate base of \$33,712,526 which, it found, represented the 'actual legitimate cost' of the company's interstate property...</p>

	<p>Paragraph 54 “[T]he Commission's rate ORDERS must be founded on due consideration of all the elements of the public interest which the production and distribution of natural gas involve just because it is natural gas. These elements are reflected in the Natural Gas Act if that Act be applied as an entirety. See, for instance, §§ 4(a)(b)(c)(d), 6, and 11, 15 U.S.C. §§ 717c(a)(b)(c)(d), 717e, and 717j, 15 U.S.C.A. §§ 717c(a—d), 717e, 717j. Of course the statute is not concerned with abstract theories of ratemaking. But its very foundation is the 'public interest', and the public interest is a texture of multiple strands. It includes more than contemporary investors and contemporary consumers. The needs to be served are not restricted to immediacy, and social as well as economic costs must be counted.”</p>
31.	<p>PCAOB Auditing Standard No. 5</p> <p>An Audit of Internal Control Over Financial Reporting that is Integrated with an Audit of Financial Statements</p> <p>1. This standard establishes requirements and provides direction that applies when an auditor is engaged to perform an audit of management's assessment 1/ of the effectiveness of internal control over financial reporting ("the audit of internal control over financial reporting") that is integrated with an audit of the financial statements. 2/</p> <p>2. Effective internal control over financial reporting provides reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes. 3/ If one or more material weaknesses exist, the company's internal control over financial reporting cannot be considered effective. 4/</p> <p>Footnotes</p> <p>3. The auditor's objective in an audit of internal control over financial reporting is to express an opinion on the effectiveness of the company's internal control over financial reporting. Because a company's internal control cannot be considered effective if one or more material weaknesses exist, to form a basis for expressing an opinion, the auditor must plan and perform the audit to obtain appropriate evidence that is sufficient to obtain reasonable assurance 5/ about whether material weaknesses exist as of the date specified in management's assessment. A material weakness in internal control over financial reporting may exist even when financial statements are not materially misstated.</p> <p>4. The general standards 6/ are applicable to an audit of internal control over financial reporting. Those standards require technical training and proficiency as an auditor, independence, and the exercise of due professional care, including professional skepticism. This standard establishes the fieldwork and reporting standards applicable to an audit of internal control over financial reporting.</p>
32.	<p>CONSTITUTION of the COMMONWEALTH OF PENNSYLVANIA, Article I - WE DECLARE THAT-- § 1. Inherent rights of mankind. All ...have certain inherent and infeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property ...</p>
33.	<p>CONSTITUTION of the COMMONWEALTH OF PENNSYLVANIA, Article I § 11</p> <p>Courts to be open;</p> <p>All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay.</p>

34.	Article VI § 3. Oath of office. Senators, Representatives and all judicial, State and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation before a person authorized to administer oaths. "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity."
35.	ARTICLE VIII TAXATION AND FINANCE § 10. Audit. The financial affairs of any entity funded or financially aided by the Commonwealth, and all departments, boards, commissions, agencies, instrumentalities, authorities and institutions of the Commonwealth, shall be subject to audits made in accordance with generally accepted auditing standards.
36.	Pennsylvania Management Directive -- Performance of Audit Responsibilities Number: 325.3 Amended. (2011) Applies to Commissions with their audit—financial, attestations and performance.  Requires the use of the Federal Generally Accepted Government Auditing Standards (GAGAS) This document is frequently referred to as the GAO Yellow Book. (Apr. 23, 1968, P.L.App.7, Prop. No.4)
37.	Pennsylvania Management Directive -- Applies to Commissions -- Processing Audits of Federal Pass-Through Funds Number: 325.9. Requires the use of 2 CFR 200 PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS
38.	Pennsylvania Management Directive -- Applies to Commissions -- Standards for Internal Controls in Commonwealth Agencies 325.12 Amended (2018) Requires the use of the Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States. This document is referred to as the GAO Green Book
39.	PA Title 18 § 3901. Definitions.  "Deprive." (1) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value, or with intent to restore only upon payment of reward or other compensation; or (2) to dispose of the property so as to make it unlikely that the owner will recover it.  "Movable property." Property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.  "Obtain." (1) To bring about a transfer or purported transfer of legal interest in property, whether to the obtainer or another; or (2) in relation to labor or service, to secure performance thereof.  "Property." Anything of value, including real estate, tangible and intangible personal property, contract rights, choses-in-action and other interests in or claims to wealth, ...  "Property of another." Includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, ...
40.	PA Title 18 § 3922. Theft by deception.



	<p>Offense defined. --A person is guilty of theft if he intentionally obtains or withholds property of another by deception. A person deceives if he intentionally: creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise; prevents another from acquiring information which would affect his judgment of a transaction; or fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship.</p>
41.	<p>PA TITLE 66 PUBLIC UTILITIES § 102. Definitions.</p> <p>Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:</p> <p>"Customer's service line." The pipe and appurtenances owned by the customer extending from the service connection of the gas utility to the inlet of the meter serving the customer.</p> <p>"Facilities." All the plant and equipment of a public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with, the business of any public utility.</p> <p>"Public utility." (1) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for:</p> <p>(i) Producing, generating, transmitting, distributing, or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation.</p> <p>"Rate base." The value of the whole or any part of the property of a public utility to which is used and useful in the public service. [A customer's service line is not used in public service]</p> <p>"Service line." The pipe and appurtenances of the gas utility which connect any main with either the point of connection of a customer's service line or the meter of the public utility if the utility owns all the pipe and appurtenances between its main and meter.</p> <p>"Tariff." All schedules of rates, all rules, regulations, practices, or contracts involving any rate or rates, including contracts for interchange of service, and, in the case of a common carrier, schedules showing the method of distribution of the facilities of such common carriers.</p>
42.	<p>TITLE 66 PUBLIC UTILITIES § 315. Burden of proof. (a) Reasonableness of rates. -</p> <p>-In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. The commission shall give to the hearing and decision of any such proceeding preference over all other proceedings, and decide the same as speedily as possible.</p>

	<p>(b) Compliance with commission determinations and orders. --In any case involving any alleged violation by a public utility, contract carrier by motor vehicle, or broker of any lawful determination or order of the commission, the burden of proof shall be upon the public utility, contract carrier by motor vehicle, or broker complained against, to show that the determination or order of the commission has been complied with.</p> <p>(c) Adequacy of services and facilities. --In any proceeding upon the motion of the commission, involving the service or facilities of any public utility, the burden of proof to show that the service and facilities involved are adequate, efficient, safe, and reasonable shall be upon the public utility.</p> <p>(d) Justification of accounting entries. --The burden of proof to justify every accounting entry questioned by the commission shall be upon the public utility making, authorizing, or requiring such entry, and the commission may suspend any charge or credit pending submission of such proof by such public utility.</p>
43.	<p>§ 332. Procedures in general.</p> <p>(a) Burden of proof. --Except as may be otherwise provided in section 315 (relating to burden of proof) or other provisions of this part or other relevant statute, the proponent of a rule or order has the burden of proof.</p> <p>(b) Admissibility of evidence. --Any oral or documentary evidence may be received, but the commission shall as a matter of policy provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. No sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative and substantial evidence.</p> <p>(c) Submission of evidence. -- Every party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The commission may, by rule, adopt procedures for the submission of all or part of the evidence in written form.</p> <p>(d) Record, briefs and argument. -- The transcript of a public input hearing, the transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision, and shall be available for inspection by the public. Briefing and oral argument shall be held in accordance with rules established by the commission. For the purpose of this section, a public input hearing is a hearing held in the service area at which the ratepayers may offer testimony, written or otherwise, relating to any matter which has a bearing on the proceeding.</p>
44.	<p>Title 66 § 501. General powers.</p> <p>(a) Enforcement of provisions of part --In addition to any powers expressly enumerated in this part, the commission shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this part, and the full intent thereof; and shall have the power to rescind or modify any such regulations or orders. The express enumeration of the powers of the commission in this part shall not exclude any power which the commission would otherwise have under any of the provisions of this part.</p>

	<p>(b) Administrative authority and regulations. --The commission shall have general administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth. The commission may make such regulations, not inconsistent with law, as may be necessary or proper in the exercise of its powers or for the performance of its duties.</p> <p>(c) Compliance. --Every public utility, its officers, agents, and employees, and every other person or corporation subject to the provisions of this part, affected by or subject to any regulations or orders of the commission or of any court, made, issued, or entered under the provisions of this part, shall observe, obey, and comply with such regulations or orders, and the terms and conditions thereof.</p>
45.	<p>§ 516. Audits of certain utilities.</p> <p>(a) General rule. --The commission shall provide for audits of any electric, gas, telephone or water utility whose plant in service is valued at not less than \$10,000,000. The audits shall include an examination of management effectiveness and operating efficiency. The commission shall establish procedures for audits of the operations of utilities as provided in this section. Audits shall be conducted at least once every five years unless the commission finds that a specific audit is unnecessary, but in no event shall audits be conducted less than once every eight years. A summary of the audits mandated by this subsection shall be released to the public, and a complete copy of the audits shall be provided to the Office of Trial Staff and the Office of Consumer Advocate.</p>
46.	<p>§ 523. Performance factor consideration.</p> <p>(a) Considerations. -- The commission shall consider, in addition to all other relevant evidence of record, the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates under this title. On the basis of the commission's consideration of such evidence, it shall give effect to this section by making such adjustments to specific components of the utility's claimed cost of service as it may determine to be proper and appropriate. Any adjustment made under this section shall be made on the basis of specific findings upon evidence of record, which findings shall be set forth explicitly, together with their underlying rationale, in the final order of the commission.</p>
47.	<p>§ 701. Complaints.</p> <p>The commission, or any person, corporation, or municipal corporation having an interest in the subject matter, or any public utility concerned, may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission. Any public utility, or other person, or corporation likewise may complain of any regulation or order of the commission, which the complainant is or has been required by the commission to observe or carry into effect.</p>
48.	<p>§ 1301. Rates to be just and reasonable.</p>

	<p>(a) Regulation. --Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. Only public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits, shall be subject to regulation and control by the commission as to rates, with the same force, and in like manner, as if such service were rendered by a public utility.</p>
49.	<p>§ 1351. Definitions.</p> <p>"Capitalized cost." Costs permitted to be capitalized pursuant to the Uniform System of Accounts and Generally Accepted Accounting Principles.</p> <p>"Distribution system." A system owned or operated by a utility. The term includes a natural gas distribution company, a city natural gas distribution operation, an electric distribution company, a water utility and a collection system for a wastewater utility.</p>
50.	<p>§ 1359. Projects.</p> <p>(a) Standards. --The commission shall establish standards to ensure that work on utility systems to repair, improve or replace eligible property is performed by qualified employees of either the utility or an independent contractor in a manner that protects system reliability and the safety of the public.</p> <p>(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.</p> <p>(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.</p>
51.	<p>§ 1501. Character of service and facilities.</p> <p>Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities <u>as shall be necessary</u> or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. ... The commission shall have sole and exclusive jurisdiction to promulgate rules and regulations for the allocation of natural or artificial gas supply by a public utility.</p>
52.	<p>§ 2205. Duties of natural gas distribution companies.</p> <p>(a) Integrity of distribution system. --</p> <p>(1) Each natural gas distribution company shall maintain the integrity of its distribution system at least in conformity with the standards established by the Federal Department of Transportation and such other <u>standards practiced by the industry</u> in a manner sufficient to provide safe and reliable service to all retail gas customers connected to its system consistent with this title and the commission's orders or regulations.</p>

53.	<p>§ 3309. Liability for damages occasioned by unlawful acts.</p> <p>(a) General rule. --If any person or corporation shall do or cause to be done any act, matter, or thing prohibited or declared to be unlawful by this part, or shall refuse, neglect, or omit to do any act, matter, or thing enjoined or required to be done by this part, such person or corporation shall be liable to the person or corporation injured thereby in the full amount of damages sustained in consequence thereof. The liability of public utilities, contract carriers by motor vehicles, and brokers for negligence, as heretofore established by statute or by common law, shall not be held or construed to be altered or repealed by any of the provisions of this part.</p>
54.	<p>Title 52 Chapter 1§ 1001.3. Liberal construction.</p> <p>(b) The singular includes the plural, and the plural, the singular. Words used in the masculine gender include the feminine and neuter. Words used in the past or present tense include the future.</p> <p>(c) The Authority or presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.</p> <p>(d) These liberal construction provisions apply with particularity in proceedings involving pro se litigants.</p>
55.	<p>52 Pa. Code § 5.21</p> <p><b>FORMAL COMPLAINTS</b></p> <p>§ 5.21. Formal complaints generally. (a) A person complaining of an act done or omitted to be done by a person subject to the jurisdiction of the Commission, in violation, or claimed violation of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission, may file a formal complaint with the Commission.</p>
56.	<p>52 Pa. Code § 59.13. Complaints.</p> <p>(a) Investigations. Each public utility shall make a <u>full and prompt investigation</u> of complaints made to it or through the Commission by its customers.</p> <p>(b) Records of complaints. Each public utility shall preserve written or recorded service complaints showing the name and address of the complainant, the date and character of the complaint, and the adjustment or disposal made of the complaint. Records required by this chapter shall be kept within this Commonwealth at an office or offices of the utility located in the territory served by it, and shall be open for examination by the Commission or its staff.</p>
57.	<p>§ 59.18. Meter, regulator and service line location.</p> <p>(a) General requirements for meter and regulator location.</p> <p>(6) The meter location must accommodate access for meter reading, inspection, repairs, testing, changing and operation of the gas shut-off valve.</p> <p>(8) Meters and service regulators may not be installed in the following locations:</p> <p>(i) Beneath or in front of windows</p>
58.	<p>§ 59.33. Safety.</p> <p>(a) Responsibility. Each public utility shall at all times use every reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers and others may be subjected to by reason of its equipment and facilities.</p>

	<p>(b) Safety code. The minimum safety standards for all natural gas and hazardous liquid public utilities in this Commonwealth shall be those issued under the pipeline safety laws as found in 49 U.S.C.A. § § 60101—60503 and as implemented at 49 CFR Parts 191—193, 195 and 199, including all subsequent amendments thereto. Future Federal amendments to 49 CFR Parts 191—193, 195 and 199, as amended or modified by the Federal government, shall have the effect of amending or codifying the Commission’s regulations with regard to the minimum safety standards for all natural gas and hazardous liquid public utilities. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes a notice in the Pennsylvania Bulletin stating that the amendment or modification may not take effect.</p> <p>(e) Records. Each public utility shall keep adequate records as required for compliance with the code in subsection (b). The records shall be accessible to the Commission and its staff.</p>
59.	<p>§ 59.36. Abandonment of inactive service lines.</p> <p>A public utility shall have a plan ...</p> <p>(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.</p> <p>(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).</p> <p>Source: The provisions of this § 59.36 amended May 30, 1986, effective May 31, 1986, 16 Pa.B. 1901. Immediately preceding text appears at serial page (20981).</p>
60.	<p>COLUMBIA GAS OF PENNSYLVANIA, INC. Tariff ISSUED: June 25, 2021</p> <p>1.3 Application of Tariff</p> <p>The Tariff provisions apply to any party or parties lawfully receiving gas service from the Company, under the rates set forth therein, and the receipt of gas shall constitute the receiver a customer of the Company as the term is used herein.</p>
61.	<p>1.4 Rules and Regulations</p> <p>The Rules and Regulations, filed as a part of this Tariff, are a part of every contract or agreement for service, whether written, oral or implied, made by the Company, and govern all classes of service where applicable</p>
62.	<p>1.5 Statement of Agents</p> <p>No agent or employee of the Company has authority to make any promise, agreement or representation inconsistent with the provisions of this Tariff.</p>
63.	<p>3.3 Acceptance</p>

	Acceptance of service by the customer shall constitute an agreement to accept service under these Rules and Regulations, as amended from time to time, the Orders or Rules of the Pennsylvania Public Utility Commission, and Laws of the Commonwealth of Pennsylvania, and the Laws of the United States of America.
64.	<p>4.14 Maintenance of Lines</p> <p>All house and service lines (sic) to the curb valve, or to the property or lot line if there is no curb valve, shall be kept and maintained in good condition by the owner of such facilities. When leaky or hazardous conditions of the service (sic) and house lines are found, repairs shall be made promptly by the owner of such facilities.</p> <p>(See the Ownership and Maintenance section of this tariff for further information.)</p>
65.	<p>4.16 Customer's Responsibility</p> <p>Customer assumes all responsibility for property owned by the customer on customer's side of the point of connection, as well as for the installation and appliances used in connection therewith, and will save Company harmless from and against all claims for injury or damage to persons or property occasioned by or in any way resulting from such service or the use thereof on customer's side of the point of connection.</p>
66.	<p>7.1 Point of Delivery</p> <p>The point of delivery of gas to a customer shall be at the outlet side of the curb valve, or the property or lot line if there is no curb valve, at which point title of the gas shall pass to the customer; provided, however, in the territory formerly served under Tariff Gas - Pa. P.U.C. Nos. 6 and 7, the point of delivery shall be the outlet side of the meter at which point title of the gas shall pass to the customer.</p> <p>(See the Description of Territory section of this tariff to identify territory formerly served under Tariff Gas - Pa. P.U.C. No. 6 and Tariff Gas - Pa. P.U.C. No. 7.)</p>
67.	<p>8.1 Service Connections</p> <p>The Company will install the service line from its main to point of delivery, as defined in the Point of Delivery section of this tariff; ...</p>
68.	<p>8.4 Ownership and Maintenance</p> <p>The Company shall own, maintain and renew, <u>when necessary</u>, its main extension and/or service line from its main to the point of delivery, as defined in Rule 7.1.</p>

### III. SUMMARY OF ARGUMENT

*Press Release of the Pennsylvania Public Utility Commission – “PUC to Investigate Rate Increase Request by Columbia Gas Published on 5/6/2021*

*HARRISBURG – The Pennsylvania Public Utility Commission (PUC) voted today to investigate a rate increase request filed by Columbia Gas of Pennsylvania, which provides natural gas distribution services to approximately 436,000 residential, commercial, and industrial customers in portions of 26 counties across western and south-central Pennsylvania.*

*The Commission voted 4-0 to investigate the request, which was filed on March 30, 2021.*

*The changes proposed by Columbia Gas would produce an overall revenue increase of approximately \$98.3 million per year. Under this proposal the monthly bill for a residential customer using 70 therms per month would increase from \$100.77 to \$115.37 (14.49%).”*

This press release is linked to (<https://www.puc.pa.gov/pcdocs/1702741.doc>) the associated Order

of the Commission – In part:

*“Investigation and analysis of the proposed tariff filing and the supporting data indicate that the proposed changes in rates, rules, and regulations may be unlawful, unjust, unreasonable, and contrary to the public interest. It also appears that consideration should be given to the reasonableness of the Columbia Gas of Pennsylvania, Inc.’s existing rates, rules, and regulations;*

*THEREFORE,*

*IT IS ORDERED:*

- 1. That an investigation on Commission motion be, and hereby is, instituted to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Columbia Gas of Pennsylvania, Inc.’s proposed Supplement No. 325 to Tariff Gas – Pa. P.U.C. No. 9.*
- 4. That this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc.’s existing rates, rules, and regulations.*
- 5. That the case be assigned to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision.*
- 6. That a copy of this Order shall be served upon Columbia Gas of Pennsylvania, Inc., the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small*



*Business Advocate, and any persons who have filed Formal Complaints against the proposed tariff supplement.”*

Orders 1. and 4. regarding investigations of proposed and existing rates have not occurred, as such there is no legitimate basis for the administrative law judge to provide a Recommended Decision per Order 5. Order 5. is contingent upon the satisfactory completion of Orders 1. and 4. Orders 1. and 4. constitute deliverables to the rate case record. A series of hearings and documents of the participants do not constitute those deliverables. Even recommending a settlement would be inappropriate. Rates must be based upon facts of reasonable assurance and proof of Columbia’s effective internal controls including “actual legitimate cost”.

It gets worse. The purpose of rate cases is to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations. Columbia has the burden of proof to show that their rates are just and reasonable.

Apr. 23, 1968, P.L.App.7, Prop. No.4 the electorate of Pennsylvania voted to amend the Pennsylvania Constitution to include *ARTICLE VIII TAXATION AND FINANCE § 10. Audit. The financial affairs of any entity funded or financially aided by the Commonwealth, and all departments, boards, commissions, agencies, instrumentalities, authorities and institutions of the Commonwealth, shall be subject to audits made in accordance with generally accepted auditing standards.*<sup>7</sup> The Public Utility Commission has a greater impact on the public’s wellbeing than any other commission in Pennsylvania, so it stands to reason the people had the PA PUC and their operations in mind when voting on the amendment.

Further, the Pennsylvania Management Directive -- Performance of Audit Responsibilities Number: 325.3 Amended. (2011)<sup>8</sup> Applies to Commissions with their audits—financial, attestations, and performance. This requires the use of the Federal Generally Accepted

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<sup>7</sup> <https://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/00/00.HTM>

<sup>8</sup> [https://www.oa.pa.gov/Policies/md/Documents/325\\_3.pdf](https://www.oa.pa.gov/Policies/md/Documents/325_3.pdf)

Government Auditing Standards (GAGAS). This document is frequently referred to as the GAO Yellow Book. This Directive defines an audit as “*Audit. An independent examination or appraisal of the diverse operations and controls within an agency for use as a management tool to determine whether financial statements and transactions are fairly stated; applicable policies, procedures, and principles are followed; established standards are met; resources are used efficiently and economically; and the organization's objectives are being achieved.*” ...

5. *POLICY. a. Audits of commonwealth organizations, programs, activities, and functions are to be performed by qualified auditors, and must be performed in accordance with generally accepted government auditing standards (GAGAS), promulgated by the United States Government Accountability Office in its publication, Government Auditing Standards.*

Auditing is all about auditing the internal controls of an organization – the GAO Yellow Book mentions “internal control” 244 times. The Commission’s last audit of Columbia issued in 2020 was not conducted in accordance with the GAO Yellow Book. (Section 1. 22b. Page 11)

*“Internal control audit objectives. These relate to an assessment of one or more aspects of an entity’s system of internal control that is designed to provide reasonable assurance of achieving effective and efficient operations, reliability of reporting for internal and external use, or compliance with provisions of applicable laws and regulations. Internal control objectives also may be relevant when determining the cause of unsatisfactory program performance. Internal control is a process effected by an entity’s oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved. Internal control comprises the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the entity.”*

The GAO Yellow Book, the GAO Green Book, Generally Accepted Accounting Principles, Generally Accepted Auditing Standards, Generally Accepted, FERC’s 18 CFR Part 201 - UNIFORM SYSTEM OF ACCOUNTS and COSO’s INTERNAL CONTROL – INTEGRATED FRAMEWORK is the required integrated track for organizational governance for publicly traded

companies (NiSource parent off Columbia) and government organizations (Pennsylvania Public Utility Commission). Not being on the track that has been laid, results in not reaching the destination objective ... among other things assurances of just and reasonable rates.

The participants of this rate case do not have the necessary audit reports that provide some sort of basis that provides decision-makers and customers reasonable assurance that Columbia has current and proposed just and reasonable rates ... independent audits were simply not conducted either by the Commission or an independent third party.

Based upon Pennsylvania public utility law:

*TITLE 66 PUBLIC UTILITIES § 315. Burden of proof. (a) Reasonableness of rates. --In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.*

**Orders of the Commission must still be achieved.**

*“1. That an investigation on Commission motion be, and hereby is, instituted to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Columbia Gas of Pennsylvania, Inc.’s proposed Supplement No. 325 to Tariff Gas – Pa. P.U.C. No. 9.*

*4. That this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc.’s existing rates, rules, and regulations.*

**In summary: No proven internal controls -- No independent audits — no evidence -- no proof or reasonable assurance of just and reasonable rates – no rate increase.**

**IV. ARGUMENT (NULL-- Just and Reasonable rateS can Not be established)**

- A. Rate Structure [If litigated]
  1. Introduction
  2. Allocated Cost of Service
  3. Proposed Revenue Allocation and Alternatives
  4. Rate Design
    - a. *Residential Rate Design (Settled)*
    - b. *Small C&I Customer Rate Design*
    - c. *Large C&I Customer Rate Design*
- B. Mr. Culbertson Issues -- Obtaining Just and Reasonable Rates
  1. Introduction
    - a. *(See I. INTRODUCTION of tis document.)*
    - b. *"Facts provided from NiSource, Parent of Columbia Gas of Pennsylvania. [This information was included in the Culbertson Formal Complaint and Direct Testimony 1 and is unchanged as of the date of this brief.]*

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

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

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

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

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

Columbia Gas of Pennsylvania should not be rewarded for not having effective internal controls that result in waste, fraud, and abuse. This chart alone is justification not to grant this rate increase

for Columbia Gas of Pennsylvania. This chart alone should prompt the Commission to order an external independent performance, forensic and financial audit of Columbia Gas of Pennsylvania, which Culbertson is requesting.

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

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

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

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

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

**The rate base per customer is 2.7 times more in Pennsylvania than Indiana and 2.6 for Ohio.**

This is prima facie evidence that the **rate base is unreasonable thus rates are unreasonable**. The law of the land is that rates and charges must be just and reasonable otherwise they are unlawful.

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

**2. Objectives and Meeting Objectives of COSO INTERNAL CONTROL –  
INTEGRATED FRAMEWORK:**

The Culbertson Direct Testimony 1 addresses the requirement to meet objectives by using the integrated internal control framework. The Culbertson Direct Testimony 1 and the SURREBUTTAL TESTIMONY OF RICHARD C. CULBERTSON are hereby incorporated by reference in this Brief.

Columbia claimed they used COSO Internal control framework but refused to provide substantiation. Using the internal control framework provides the method to satisfy the burden of proof of just and reasonable rates.

**3. Generally Accepted Auditing Standards and Meeting Requirements.**

Section A. Legal Standards And Burden Of Proof of this brief include various references to the requirements to use and require the use of the appropriate generally accepted audit standards for those auditing and those being audited. Determinations of “lawfulness, justness, and reasonableness of the rates, rules, and regulations” require the use of Generally Accepted Auditing Standards. for both:

- a.** *Financial Audits*
- b.** *Performance Audits (management, operational and special audits)*

**4. Reasonable Assurance**

Footnote 26 -- PCAOB Auditing Standard No. 5, An Audit of Internal Control Over Financial Reporting that is Integrated with an Audit of Financial Statements and  
APPENDIX A – Definitions

<https://pcaobus.org/oversight/standards/archived-standards/pre-reorganized-auditing-standards->

[interpretations/details/Auditing\\_Standard\\_5\\_Appendix\\_A#:~:text=A%20material%20weakness%20is%20a,detected%20on%20a%20timely%20basis](https://pcaobus.org/oversight/standards/archived-standards/pre-reorganized-auditing-standards-interpretations/details/Auditing_Standard_5_Appendix_A#:~:text=A%20material%20weakness%20is%20a,detected%20on%20a%20timely%20basis)

*“A2. A control objective provides a specific target against which to evaluate the effectiveness of controls. A control objective for internal control over financial reporting generally relates to a relevant assertion and states a criterion for evaluating whether the company's control procedures in a specific area provide reasonable assurance that a misstatement or omission in that relevant assertion is prevented or detected by controls on a timely basis.”*

Customers, stockholders, the PUC, and others expect Columbia to provide reasonable assurance of their assertions of effective internal controls --- those reasonable assurances have not been provided. PCAOB [Auditing Standard No. 5](#)

An Audit of Internal Control Over Financial Reporting that is Integrated with an Audit of Financial Statements -- Provides a good overview of what is required to reach a level of reasonable assurance that applies to the elements of Columbia's internal controls.

Stakeholders of Columbia do not have reasonable assurance of Columbia's internal controls – nor just and reasonable rates.

## 5. [Relief Sought](#)

The relief sought in Culbertson's Direct Testimony 1:

### **“RELIEF**

I respectfully request that the Commission take the following actions:

A. Investigate concerns and validate Columbia's full and earnest investigation of the contents of my complaint.

B. Rule that [p]art of a rate increase or decrease is provided based on reliable assurances of '**actual legitimate cost**' of property owned by Columbia Gas of Pennsylvania. The level of assurance must be provided by competent independent auditors and must comply with the definition provided in 2 CFR § 200.7.

C. Rule that a determination of just and reasonable rates cannot begin until there is reasonable assurance Columbia's financial performance is based upon '**actual legitimate cost**'. The data from themselves and the parent company show the rate base – thus rates are not reasonable. This chart on its own is substantial evidence of that fact.

D. Reconsider and rule in the letter and spirit and limitations of the Hope decision as provided in this Complaint; (FEDERAL POWER COMMISSION et al. v. HOPE NATURAL GAS CO. CITY OF CLEVELAND v.

SAME Decided Jan. 3, 1944, <https://www.law.cornell.edu/supremecourt/text/320/591>) particularly Paragraph 54 [T]he Commission's rate **ORDERS must be founded on due consideration of all the elements of the public interest** which the production and distribution of natural gas involve just because it is natural gas. These elements are reflected in the Natural Gas Act if that Act be applied as an entirety. See, for instance, §§ 4(a)(b)(c)(d), 6, and 11, 15 U.S.C. §§ 717c(a)(b)(c)(d), 717e, and 717j, 15 U.S.C.A. §§ 717c(a—d), 717e, 717j. Of course the statute is not concerned with abstract theories of ratemaking. **But its very foundation is the 'public interest', and the public interest is a texture of multiple strands. It includes more than contemporary investors and contemporary consumers.**

*The needs to be served are not restricted to immediacy, and social as well as economic costs must be counted.*

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

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

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

F. Rule, the Commission is or is not using applicable parts of the GAO Green Book on Internal Controls as required by Pennsylvania Management Directive of the Governor's Office -- Standards for Internal Controls in Commonwealth Agencies 325.12 Amended (2018).

G. Rule that the Commission and Columbia Gas must use generally accepted audits as applicable. Generally accepted audits are expressed in the GAO Yellow Book. Management Directive of the Governor's Office -- Performance of Audit Responsibilities 325.3 Amended (2011)

H. Rule that the Commission and Columbia Gas are subject to the requirement as applicable to 2 C.F.R. § 200: e.g. § 200.61 Internal controls; § 200.303 Internal controls; § 200.404 Reasonable costs; § 200.110 Effective/applicability date; 200.434 Contributions and donations; § 200.504 Frequency of audits; § 200.514 Scope of audit; § 200.6 Auditee; and other applicable sections of this Federal regulation.



I. Rule that annual audits must include an assurance statement and identification of and material weaknesses, significant deficiencies and deficiencies, and a corrective action plan with dates of progress – if any.

J. Rule that Columbia must correct its accounting to the extent that rates and charges are just and reasonable and in conformance with integrated internal controls and independent and competent audits. Additional details are included in the body of this complaint.

K. Rule that Columbia Gas must satisfy the corrective actions identified by Federal Officials and NiSource Management promises to correct safety deficiencies in records, processes, and facilities as a result of the disaster with Columbia Gas of Massachusetts and provide the Commission and the parties of this rate case, that items identified by Federal officials have or have not been corrected at Columbia Gas of Pennsylvania's facilities.

L. Rule that Columbia Gas must recognize boundaries and rights as provided in private property deeds. The authority of Columbia gas must be consistent with laws, regulations, and legal portions of Columbia's Tariff. In addition, **Columbia does not have the right to trespass, interfere, replace, or maintain or abandon private property -- Columbia does have a right to reasonable access to its property. On what basis did Columbia inspect a heat exchanger on private proper[t]y by people who may not be qualified to test and inspect heating systems?**

M. Rule that Columbia must recognize Pennsylvania Utility law Title 66 section 102 regarding basic definitions and concepts such as facilities (owned by a public utility – tangible and intangible. Private property owners also have tangible and intangible property), service line (always owned by a public utility), customer's service line (never owned by a public utility, Rate Base (property of a public utility which is used and useful in the public service – private property is not used in public service). The Commission nor Columbia has the authority or jurisdiction to change these definitions and must apply them as enacted.

N. Recognize safety concerns and order corrections that have been observed that provide an undue risk to public safety. These include placing meters in unsafe locations such as under a window so there is no safe access to shut off the gas in an emergency; not installing curb valves on service lines – in an emergency, there may not be a curb valve with an owner's name thereby putting first responders and others at risk in an emergency; not complying with industry standards in service line sizes – thereby insufficient energy is supplied to the home making the service to the home incapable of using the latest and most efficient appliances; installing service lines without quality assurance processes and documented assurance of conformance with requirements.

O. Order the withdrawal of the Plumbers Guide as it declares untruths and harms property owners and private plumbing contractors. Order that Columbia come clean with individuals who have been harmed and encourage Columbia to provide restitution to those harmed. Columbia has no right to misrepresent its authority.

**P. Deny an increase in the Company's rates that cannot be fully justified by the Company or that is unjust, unreasonable, unduly discriminatory, or otherwise inconsistent with the Public Utility Code, sound rate-making principles, and public policy;**

Q. Determine the justness and reasonableness of the Company's current and proposed rates; and

R. Grant such other relief that the Commission deems necessary.

S. I file this Formal Complaint to ensure that the Commission will fully and fairly deal and adjudicate issues pertaining to whether the Company's existing and proposed rates and internal operations are unjust, unreasonable, unduly discriminatory, or otherwise unlawful."

**RCC June 16, 2021**

**The relief sought by Culbertson has been consistent since the start of this rate case.**

**Settlement talks have not produced and any movement by Columbia. The correspondence to and from Columbia through their attorney bests shows my intent and additional relief sought from Columbia Gas of Pennsylvania – in part.**

**"August 16, 2021**

Mr. Hassell,

On important issues I try to use the concept of measure twice and cut once. A couple days ago I ran across my initial letter to Mark Kempic and Mike Davidson of August 9, 2016. The issues then are some of the same issues now. I never got a direct response from them. My next letter went to Joe Hamrock and he replied in part:

September 9, 2016 Joe Hamrock wrote in letter:

"Mr. Culbertson:

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As a regulated utility , Columbia Gas is bound to comply with the provisions of its Tariff, which provides that Columbia Gas will install the Company-owned portion of the service line up to the property line or curb valve at no cost to you. The Tariff further requires you to install the customer-owned portion of the service line. A customer's service line must meet all current

**installation and safety standards.** I appreciate the need you have for as service at 1608 McFarland Road and, as Mr. Kempic\* has stressed to me, Columbia Gas stands ready to provide that service, consistent with our commitment to safety and consistent with the applicable Tariff, laws, and regulations.”

**Joe Hamrock**

**President and CEO NiSource (Parent Company of CG/PA)**

\* President of Columbia Gas of Pennsylvania

**Note: underlines were added for clarity and importance.**

**Then as in now some of the same deceptive lines are used** “The Tariff further requires you to install the customer-owned portion of the service line.” There is no such item as a “customer-owned portion of the service line” In Pennsylvania law Title 66 under definitions there is a “service line” of which is owned fully by Columbia and there is a “customer’s service line” that is not owned by Columbia. A service line and a customer’s service line are not commingled, they are distinct and identifiable.

My concern is, in the settlement decision – who were your clients -- Mr. Kempic or Mr. Hamrock? You do not have to answer that.

I believe Mr. Kempic and Mr. Hamrock are in conflict of interest – do they protect the corporation or themselves? Their decision not to settle may be an act to protect themselves rather than to protect the reputation of the NiSource Corporation.

Below are portions of the NISOURCE CODE OF BUSINESS CONDUCT. For the most part, this is a good document and requires high standards for business conduct. The Code applies to all – including the presidents of companies. Waivers of the Code must be made by the Board of Director’s Audit Committee and be disclosed.

Did my settlement offer go through the Board’s Audit Committee? It should have.

Eventually, there should be no doubt as to who is accountable for abandoning another’s property... Management or members of the Board of Directors?

I believe PA Title 18 § 3922. Theft by deception. Applies.

PA Title 18 § 3922. Theft by deception. PA Title 18 § 3922. Theft by deception.

*Offense defined. --A person is guilty of theft if he intentionally obtains or withholds property of another by deception. A person deceives if he intentionally:*

*creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise; prevents another from acquiring information which would affect his judgment of a transaction; or fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship.*

We all should want to seek justice for all in this matter.

Please provide this email to your decision making client for their reconsiderations. If [t]he client did not go through the Audit Committee ... they should have. We should not condone a management decision that violates the NiSource Code of Business Conduct.

Below are portions of the Code the I believe apply.

Sincerely,

Richard C. Culbertson

609-410-0108

## RELENTLESS CHAMPIONS

Our core values – fairness, honesty, integrity and trust are the focus of the NiSource Code of Business Conduct (the “Code”). We put our values into action by demonstrating them through our behaviors, decisions and interactions. To achieve our long-term business performance goals that reflect premier performance for our customers and stakeholders, we must be relentless champions and conduct ourselves in a way that earns respect, supports our goals and inspires us all to do our best work. We must:

- **SERVE OUR CUSTOMERS AND OUR COMMUNITIES.** Understand the needs and expectations of our customers and stakeholders so we can do our best to meet or exceed them. Care about our customers. Give back to our communities.
- **BE RESPECTFUL AND INCLUSIVE.** Value everyone’s unique contributions, views and fundamental desire to do good work. Build highly skilled and diverse teams. Support each other. Recognize and reward great work. Celebrate our success.
- **WORK TOGETHER.** Get better results by working in partnership with people inside and outside the company. Collaborate.
- **DELIVER ON OUR COMMITMENTS.** Keep the promises we make to our stakeholders, co-workers, families and ourselves. Provide safe, reliable and dependable service. Execute on our plans. Build customer value.
- **BE TRANSPARENT.** Communicate in a truthful, straightforward and timely way. Create relationships built on trust and authenticity.

- **DO THE RIGHT THING.** Work and operate safely, always. Be ethical and honest in everything we do. Protect our environment. Care about our customers. Give back to our communities. Invest in our nation’s energy infrastructure and fuel long-term economic growth.

We believe that good, ethical business conduct is the foundation of a workplace where we can enjoy an atmosphere of fairness, honesty, integrity and trust, and where talented people have an equal opportunity to contribute to our strength and growth.

Our reputation ultimately rests on the good judgment and personal integrity of each of our employees, officers, Board of Directors and those with whom we do business. We believe that our core values must – at all times – guide our decisions, actions and conduct.

**NiSource Ethics**  
**FAIRNESS**  
**HONESTY**  
**INTEGRITY**  
**TRUST**  
**Living Our Core Values**

## USING SOLID JUDGMENT

**NEED TO REPORT A POTENTIAL VIOLATION? CALL THE ETHICS HOTLINE AT 1-800-457-2814 OR EMAIL [ETHICS@NISOURCE.COM](mailto:ETHICS@NISOURCE.COM)**

### YOU CAN REPORT VIOLATIONS WITHOUT FEAR OF RETALIATION

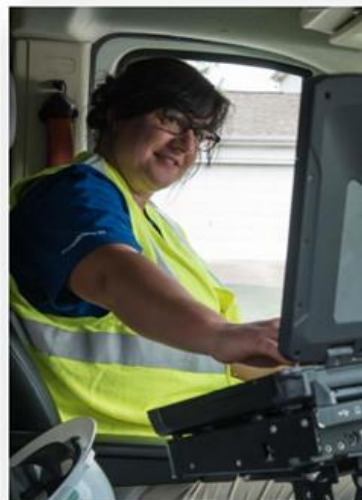
The Company will not tolerate conduct, whether direct or indirect, that involves threats, harassment, retaliation or any type of discrimination or adverse action (e.g., demotion, suspension or discharge) against an employee because they make an honest and sincere complaint without malice known as a “good faith” complaint about suspected Company or employee violations of law or violations of the Code or our policies.

The Company will promptly investigate and address complaints of alleged violations and will work to limit the investigation to those persons involved in, or who have information about, the alleged violation. When the results of an investigation indicate that a violation of this Code or one of our policies has occurred, the Company will take appropriate remedial action, up to and including termination, against any employee who is found to have engaged in, or authorized, prohibited retaliation.

**TO LEARN MORE SEE OUR [NON-RETALIATION POLICY](#).**

### WAIVERS

From time to time, the Company may waive some provisions of this Code. Any waiver of this Code for directors, Section 16 officers, and senior executives may be made only by the Audit Committee of the NiSource Board of Directors and must be promptly disclosed to the extent and in the manner required by SEC or New York Stock Exchange Rules. A waiver of this Code for officers, employees and agents who are not directors or Section 16 officers or senior executives of the company may only be made by the executive vice president and chief legal officer.



**AS AN EMPLOYEE, YOU ARE AFFORDED PROTECTION FROM RETALIATION WHEN MAKING A GOOD FAITH COMPLAINT OR WHEN ASKED TO PARTICIPATE IN AN INVESTIGATION**

## USING SOLID JUDGMENT

NEED TO REPORT A POTENTIAL VIOLATION? CALL THE ETHICS HOTLINE AT 1-800-457-2814 OR EMAIL [ETHICS@NISOURCE.COM](mailto:ETHICS@NISOURCE.COM)

### RESOURCES

This Code is an integral part of our larger NiSource Ethics Program. However, it is important to remember that not all areas of our business are addressed in this Code. The NiSource Ethics Program developed several resources to help us achieve our goals and maintain our core values that include:

- Our Company policies
- Our standards, practices, procedures, programs and rules that are applicable to all or some employees, to employees of particular business units or specialists within the Company, including, for example, our FERC Standards of Conduct
- Director and employee training related to all components of the NiSource Ethics Program
- The Ethics site on MySource
- Ethics articles on MySource
- The NiSource website, available to all employees and the general public

### NO CONTRACT OF EMPLOYMENT

This Code is intended to provide us with the appropriate standards of behavior that we are expected to follow while conducting our business. This Code is not intended to, and does not, create a contract of employment. The policies associated with any part of this Code or that form a part of our larger NiSource Ethics Program may be modified at any time. Unless covered by a collective bargaining agreement or written contract signed by an officer of the Company, our employment is "at will," which means either you or the Company may terminate your employment relationship at any time without cause or notice.

### INVESTIGATIONS

It is the policy of the Company to ensure that allegations of ethics and compliance violations are investigated promptly, thoroughly, competently and, to the extent consistent with law and Company

policies, confidentially. The policy also states that matters must be resolved consistently and fairly, and that appropriate matters are reported to senior management of the Company and the Board of Directors or its appropriate committees.

Reports that concern a possible violation of the law or the Code, or any complaints or concerns about accounting, auditing, disclosure or other financial or reporting practices will be referred to the executive vice president and chief legal officer.

**TO LEARN MORE, SEE OUR [NISOURCE INVESTIGATION PROCEDURE FOR CODE OF BUSINESS CONDUCT VIOLATIONS](#).**

### DISCIPLINARY ACTION

All employees are responsible for knowing and complying with the Code and all applicable laws, regulations and policies of the Company. Employees who, in the course of their employment, violate the law, the Code or other policies of the Company, will be subject to disciplinary action up to and including termination of employment. All employees are required to complete educational assignments regarding the Company's Code.

### ADOPTION AND DISCLOSURE OF THE CODE

This Code was reviewed and approved by the Board of Directors. The Company makes the Code available to the public via [NiSource.com](http://NiSource.com).



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**From:** Hassell, Michael <[mhassell@postschell.com](mailto:mhassell@postschell.com)>

**Sent:** Thursday, August 12, 2021 2:08 PM

**To:** [richard.c.culbertson@gmail.com](mailto:richard.c.culbertson@gmail.com); Berkstresser, Lindsay <[LBerkstresser@PostSchell.com](mailto:LBerkstresser@PostSchell.com)>

**Subject:** RE: Settlement

Mr. Culbertson,

Thank you for providing your proposals for settlement of your issues.

I have discussed your proposals with my client. Columbia has directed me to inform you that the Company does not accept your proposed terms for settlement. We will proceed to briefing your identified issues.

Respectfully,

**[Michael W. Hassell](#)**

**Principal**

**Post & Schell, P.C.**

**From:** [richard.c.culbertson@gmail.com](mailto:richard.c.culbertson@gmail.com) <[richard.c.culbertson@gmail.com](mailto:richard.c.culbertson@gmail.com)>

**Sent:** Wednesday, August 11, 2021 12:48 PM

**To:** Hassell, Michael <[mhassell@postschell.com](mailto:mhassell@postschell.com)>; Berkstresser, Lindsay <[LBerkstresser@PostSchell.com](mailto:LBerkstresser@PostSchell.com)>

**Subject:** RE: Settlement



Mr. Hassell,

Thank you for providing me the status of settlement and the opportunity to provide my opinion and recommendations on settlement.

## Internal Controls and Reliable Audits

Where I see this going is that the PUC and Columbia must transition to a better framework to arrive at just and reasonable rates consistent with current laws and regulations. That is the use of the COSO and GAO Green Book in establishing objectives and internal controls that include generally accepted audit standards.

The COSO and GAO Green Book internal control framework is illustrated below and is integrated and is to be used throughout an organization.

This framework is not new, the COSO document was published in May 2013 and the GAO Green Book September 2014. In the NiSource 10-K top management asserts NiSource has adopted the COSO framework, and in one of my interrogatories Mr. Kempic validates that Columbia Gas of Pennsylvania has as well.

Internal Control—Integrated Framework

### Relationship of Objectives and Components

A direct relationship exists between *objectives*, which are what an entity strives to achieve, *components*, which represent what is required to achieve the objectives, and the *organizational structure* of the entity (the operating units, legal entities, and other). The relationship can be depicted in the form of a cube.

- The three categories of objectives—operations, reporting, and compliance—are represented by the columns.
- The five components are represented by the rows.
- An entity's organizational structure is represented by the third dimension.



The problem for us is that the Commission and to some extent Columbia has not been operating consistently with the necessary and established internal control framework, counter to Federal and Commonwealth requirements.

Culbertson views internal controls of an organization similar to vital signs and standards and practices in the medical community. In the medical arena, blood test, scans and x-rays are ways to look inside of the body to validate wellness or identify ailments, disease, illness or injury. Monitoring activities, internal audits and external audits are used to do the same thing in organizations.

Without the necessary monitoring activities and audits, decision makers on rates are left with suppositions and hope of effective internal controls. In the medical arena we would call operations or treatment without up close investigations, blood test, scans ... malpractice. So it is with establishing just and reasonable rates without testing the effectiveness and reliability of internal controls. This malpractice reflects poorly on anyone involved in the rate making process, recognizing the required internal controls are not in place.

In the audit arena this is referred to as the requirement of Due Professional Care in the Performance of Work –as expressed in General Accepted Audit Standard AU Section 230.

<https://pcaobus.org/oversight/standards/archived-standards/pre-reorganized-auditing-standards-interpretations/details/AU230>.

It is in Columbia's best interest (and the public interest) to have independent audits of their operations prior to rate cases ... these should be the foundations in establishing the burden of proof.

For Columbia Gas, Culbertson believes it is important to recognize the PUC audits are not performed to Generally Accepted Audit Standards. Per the GAO Yellow Book these are not audits. Audits must be in conformance to General Accepted Government Audit Standards.

So financially, in this rate case, anything settled is not reliable and should not be identified to the public as just and reasonable, regardless of what the PUC decides. Here promises, public opinion and interest count.

I believe Columbia's rates must be based upon evidence that Columbia's costs have been charged consistently with the requirements of internal controls.

That needs to happen as soon as possible.

**In the settlement agreement Columbia must:**

- Seek reasonable assurance of financials and performance – consistent with laws, regulations and standards using external competent audit firms, but Deloitte. Their audits are not sufficient nor reliable for rate making purposes. The PUC should approve this plan and schedule, but they should be performed with or without PUC approval for the protection of this traded corporation.



- Columbia shall not put forth another rate increase request until financial and performance audits have been performed based upon generally accepted audit standards and are available to decision makers. An independent auditor's reasonable assurance document must be issued.

### **Abandonment of another's real property.**

- C. On August 5, 2021 the PUC issues a press release --- PUC Seeks Public Comment on Proposed Changes in Regulations for Customer-Owned Pipeline System Service Lines <https://www.puc.pa.gov/press-release/2021/puc-seeks-public-comment-on-proposed-changes-in-regulations-for-customer-owned-pipeline-system-service-lines>

The TENTATIVE IMPLEMENTATION ORDER includes things that Columbia is doing now, and the PUC is trying to put some of that in PUC regulations. The title speaks loudly of something that does not exist.

What they did not propose is to put place the authority to abandon another's real property.

Abandoning another's real property is wrong. You know that, and I know that even as a non-attorney but as a member and expert of standards setting organizations (ASTM Committee E53 Asset Management and ISO TC 251 Asset Management).

I believe abandoning another's property [~~this~~] is wrong and could be to the extent of probable cause of criminality. In 2016, I was harmed financially and interrupted by the Columbia / NiSource contention of authority to abandon my customer's service line. If Columbia elects to destroy their service line that does not give them the right to destroy my customer's service line. Columbia is under the authority PA PUC in the transportation of Natural Gas. I do not transport natural gas and the PUC has no authority to supersede current building codes that apply to residential property.

Mr. Hicks [~~in public~~] in public testimony, testified to his harm.

This situation could expose NiSource with their Deferred Prosecution Agreement with the Justice Department. So far, Columbia's management justification is non-persuasive. That is where the U.S. Sentencing Commission publication 2018 CHAPTER 8 CHAPTER EIGHT - SENTENCING OF ORGANIZATIONS applies to and should be used to minimize harm to the organization.

<https://www.ussc.gov/guidelines/2018-guidelines-manual/2018-chapter-8> *"This chapter is designed so that the sanctions imposed upon organizations and their agents, taken together, will provide just punishment, adequate deterrence, and incentives for organizations to maintain internal mechanisms for preventing, detecting, and reporting criminal conduct."*

\*\*\*

*"Background: This section sets forth the requirements for an effective compliance and ethics program. This section responds to section 805(a)(5) of the Sarbanes-Oxley Act of 2002, Public Law 107-204, which directed the Commission to review and amend, as appropriate, the guidelines and related policy statements to ensure that the guidelines that apply to organizations in this chapter "are sufficient to deter and punish organizational criminal misconduct."*

**In the settlement agreement Columbia must:**

Provide Mr. Hicks and me restitution for the improper taking control of and abandonment of our customer's service lines.

Investigate past actions to determine if and to the extent others were also harmed and make them whole as well.

My intent all along has not been to destroy or unduly harm this company but to force them to be what they have advertised themselves to be ... "a World's Most Ethical Company".

Please let me know if you have any questions. What I am asking is fair and is in the best interest of Columbia Gas, the PUC and other interested parties.

Sincerely,

Richard C Culbertson"

...

**6. Recommended Actions to Achieve Just and Reasonable Rates**

- a.** The Legal Standards identified in I.A. of this Brief must be followed and segments incorporated in any recommended and final decision by the Administrative Law Judge and the Commission.

For example:

- i. Title 66 § 501 (a). General powers. The Commission has a duty to enforce and must fulfill that duty.
- ii. Title 66 § 501 (c) Columbia Gas - officers, directors, agents, and employees must observe, obey, and comply with laws regulations, or orders.

*The Commission Orders of May 6, 2021 “1. That an investigation on Commission motion be, and hereby is, instituted to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Columbia Gas of Pennsylvania, Inc.’s proposed ... 4. That this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc.’s existing rates, rules, and regulations.”*

Columbia had a direct responsibility to observe, obey, and comply with this order. Instead, Columbia resisted participating in interrogatories regarding internal controls including operations, reporting, and compliance to the extent Orders 1. and 4. cannot be achieved.

A determination of just and reasonable rates and charges cannot be made by the Commission without Columbia’s full and active cooperation in providing relevant facts.

- b.** Much time is wasted by Columbia’s refusal to participate in good faith in discovery. The recorded proceedings show the participants of the rate case do not spend significant time seeking evidence through discovery with interrogatories. Columbia objects to about ninety percent of what is submitted. This harms due process. The Commission should investigate the effectiveness of the discovery process in adjudicating formal complaints including the percentage of interrogatories that are adequately answered. What is missing in the Commission’s regulations is the emphasis of the proportionality standard as discussed in Rule of Civil Procedure Rule 4009 – cost vs. benefits of the requested information. In rate cases that can result in hundreds of millions of dollars from customers to utilities, more information should be going to complainants per requests without going through the routine of objections. The current process should be investigated and corrected.
- c.** The Commission must prohibit rate increases without the utility submitting applicable timely audits using generally accepted audit standards. Activity in a rate case is a poor substitute for up-close audits that provide some level of assurance. Commission’s audit approach, requirements, process, and reposts must be in line with the GAO Yellow Book.
- d.** The Commission must reinvent itself using the GAO Green Book. From the GAO Green Book, it all starts with the “tone at the top”, stated objectives, and controls to meet those objectives.

- e. Columbia Gas of Pennsylvania must reinvent itself – as well.

Granted there may have been some progress with adopting API 1173 and reporting of concerns, but this is still not enough – the Culbertson Formal complaint provides multiple examples of current deficiencies and weaknesses of which must be recognized and corrected.

## VI. CONCLUSION

This rate case must follow the orders of the Commission:

THEREFORE,

IT IS ORDERED: (In part.)

*“1. That an investigation on Commission motion be, and hereby is, instituted to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Columbia Gas of Pennsylvania, Inc.’s proposed Supplement No. 325 to Tariff Gas – Pa. P.U.C. No. 9.*

*4. That this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc.’s existing rates, rules, and regulations.*

*5. That the case be assigned to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision.”* (What is ordered are deliverables –do 1. and 4. and based upon those investigations and hearings, the administrative law judge is to issue a Recommended Decision.

Order 5 is contingent upon the successful investigations including audits of Orders 1. and 4., which have not been followed. The participants of this rate case come with empty hands. The public expects to pay to just and reasonable rate as promised in the Press Release of May 6, and related Order.

This Order includes: *“Columbia Gas stated that the need for the requested increase is driven principally by increases in operating expenses and the return and depreciation requirements associated with ongoing plant additions and replacements under Columbia Gas’ accelerated pipeline replacement program.”* By definition, costs as a result of accelerated pipeline replacement[s] are not “necessary cost”. Not necessary costs are not an allowable cost for rate-making purposes and contrary to Columbia’s tariff.

*-2 CFR § 200.318 General procurement standards. (d) The non-Federal entity’s procedures must avoid acquisition of unnecessary or duplicative items.*

*-Title 66§ 1501. Character of service and facilities.*

*Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.*

*- Columbia’s Tariff 8.4 Ownership and Maintenance*

*The Company shall own, maintain and renew, when necessary, its main extension and/or service line from its main to the point of delivery, as defined in Rule 7.1.*

Replacing pipe that has remaining useful economic life and replacing them with a new pipe that has longer economic life is unreasonable. Customers will pay for the unused economic life of the existing pipe and the associated cost of the new pipe. A reasonable homeowner would not do the same with residential property. The pipe must be replaced, when necessary, not when unnecessary.

*“18 CFR Part 201 - UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES  
SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT*

*2.E. General Instructions*

*All amounts included in the accounts prescribed herein for gas plant and operating expenses shall be just and reasonable and any payments or accruals by the utility in excess of just and reasonable charges shall be included in account 426.5, Other Deductions.”*

A settlement agreement with some rate case participants does not negate the Commission’s Orders 1. and

4. Columbia Gas of Pennsylvania has the burden of proof to show their proposed and existing rates are lawful, just, and reasonable. Columbia has failed to provide that burden of proof. Self-assertions are not proof. Even in audits of the parent for financial reporting that provided an opinion of reasonable assurance is not proof of Columbia’s rates and Charges.

Rates must not be increased until all the work included in the Commission’s Orders is satisfactorily completed.

**VII. Agreement in principle to settle all issues in the Columbia Gas base rate proceeding.**  
FROM MICHAEL HASSELL TO JUDGE HOYER: AUGUST 19, 2021.  
“COLUMBIA, I&E, OCA, OSBA, CAUSE PA, PA WEATHERIZATION PROVIDERS, PSU CII, AND RESA/SHIPLEY HAVE REACHED AN AGREEMENT IN PRINCIPLE TO SETTLE ALL ISSUES IN THE COLUMBIA GAS BASE RATE PROCEEDING.”

Culbertson was not privy to the contents of this agreement in principle; therefore, he provides no opinion on its contents.

The proposed conclusions of law are contained in I.A. of this Brief.

**The Proposed Ordering Paragraphs:**

## **ORDER**

THEREFORE,  
IT IS RECOMMENDED:

1. That Columbia Gas of Pennsylvania, Inc. shall not place into effect the rates, rules, and regulations contained in proposed Supplement No. 325 to Tariff Gas – Pa. P.U.C. No. 9. the same being found unjust, unreasonable, and therefore unlawful.
2. That the investigation of Pennsylvania Public Utility Commission, Docket No.: R-2020-3018835 shall remain open until the following Orders have been satisfactorily been completed

*Order “1. That an investigation on Commission motion be, and hereby is, instituted to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Columbia Gas of Pennsylvania, Inc.’s proposed Supplement No. 325 to Tariff Gas – Pa. P.U.C. No. 9. And*

*Order 4. That this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc.’s existing rates, rules, and regulations.*

3. Columbia Gas of Pennsylvania is hereby ordered to provide a plan to the Commission within 60 days that is acceptable to the Commission that is intended to accomplishing Orders 1. and 4. This plan must use the concept and requirement of the COSO Internal Control-Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) or relevant parts of the GAO Green Book.

4. Columbia Gas of Pennsylvania is hereby ordered to provide a plan to the Commission within 60 days that is acceptable to the Commission that is intended to accomplishing Orders 1. and 4. This plan must use the concept and requirement of Generally Accepted Audit Standards or the relevant parts of the GAO Yellow Book.

4. The Commission’s Bureau of Investigation and Enforcement is hereby ordered to submit like plans to accomplish Orders 1. and 4. that are acceptable to the Commission within 60 days.

5. Columbia Gas of Pennsylvania is hereby ordered to provide information to the Commission as to how it is or will be complying with Title 66 § 2205. Duties of natural gas distribution companies. The law requires “Each natural gas distribution company shall maintain the integrity of its distribution system at least in conformity with the standards established by the Federal Department of Transportation and such other standards practiced by the industry...” The expected industry standards are API 1173 regarding safety management systems, ISO 9000 Quality Management, ISO 55000 Asset Management, and ISO 31000 Risk Management.

6. Columbia Gas of Pennsylvania is hereby ordered to the withdrawal of the Plumbers Guide as it declares untruths and harms property owners and private plumbing contractors. Columbia must identify individuals who have been harmed and provide restitution to those harmed.

7. Columbia Gas of Pennsylvania is hereby ordered to investigate with acceptable third-party supervision the extent they have harmed property owners with their improper abandonment of customer’s service lines and service lines. Start with Mr. Hicks of Uniontown and Mr. Culbertson with his property on McFarland Road in Dormont.

Respectfully Submitted,

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

Richard C Culbertson, Pro se



1430 Bower Hill Road

Pittsburgh, PA 15243

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

609-410-0108