*Via electronic service only due to Emergency Order at M-2020-3019262*

**BEFORE THE**

 **PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et al. : R-2021-3024296

 :

 :

 v. :

 :

Columbia Gas of Pennsylvania, Inc. :

**TENTH INTERIM ORDER**

**GRANTING COLUMBIA GAS OF PENNSYLVANIA INC. ’S MOTION TO STRIKE**

HISTORY OF THE PROCEEDING

On March 30, 2021, Columbia Gas of Pennsylvania, Inc. (Columbia) filed with the Pennsylvania Public Utility Commission (Commission) Supplement No. 325 to its Tariff Gas – Pa. P.U.C. No. 9. Supplement No. 325 was issued to be effective for service rendered on or after May 29, 2021. It proposed changes to Columbia’s distribution base rates designed to produce an increase in annual revenues of approximately $98.3 million based upon data for a fully projected future test year (FPFTY) ending December 31, 2022.

On May 6, 2021, the Commission issued an Order suspending Columbia’s Supplement No. 325 by operation of law until December 29, 2021.

Pursuant to the litigation schedule, Main Briefs were required to be filed and served by August 25, 2021. On August 25, 2021, Complainant, Richard C. Culbertson, filed his Main Brief.

On August 26, 2021, Columbia Gas of Pennsylvania, Inc., filed a Motion to Strike pages 34-42 of Mr. Culbertson’s Main Brief. On August 26, 2021, the Ninth Interim Order was issued requiring that any answers to the motion to strike must be filed by August 30, 2021. Mr. Culbertson filed an answer to the Motion to Strike on August 30, 2021.

Reply Briefs, the Settlement and Statements in Support are to be filed on September 7, 2021.

DISCUSSION

Beginning on page 34 of Mr. Culbertson’s Main Brief and through page 42, Mr. Culbertson quotes emails that he exchanged with counsel for Columbia. On page 34 of his Main Brief, Mr. Culbertson states, “Settlement talks have not produced and [sic] any movement by Columbia. The correspondence to and from Columbia through their attorney best shows my intent and additional relief sought from Columbia gas of Pennsylvania – in part.” Culbertson MB, p. 34. Mr. Culbertson then quotes a series of three emails that he exchanged during settlement negotiations with counsel for Columbia. The first email, dated August 11, 2021, is an email from Mr. Culbertson to counsel for Columbia in response to counsel for Columbia’s request that Mr. Culbertson provide Columbia with any settlement terms that he would like the Company to consider. In the August 11, 2021 email, Mr. Culbertson lists several settlement demands. Culbertson MB, pp. 39-42. The next email, dated August 12, 2021, is from counsel for Columbia in reply to Mr. Culbertson’s settlement demands. The August 12, 2021 email informs Mr. Culbertson that the Columbia does not accept Mr. Culbertson’s proposed settlement terms. Culbertson MB, p. 38. The final email, dated August 16, 2021, is from Mr. Culbertson to counsel for Columbia requesting that Columbia reconsider Mr. Culbertson’s settlement terms. Culbertson MB, pp. 34-38. Columbia Motion to Strike, p. 2.

According to Columbia, the purpose of these emails was to determine if Mr. Culbertson and Columbia could resolve Mr. Culbertson’s issues through settlement. The subject line of the emails reads “Settlement.” From the content of the e-mails, it is clear that the discussion was in the nature of settlement negotiations.

The Commission’s regulations prohibit parties from relying upon unsuccessful settlement negotiations when a matter proceeds to litigation. *See* 52 Pa.Code 5.231(d).

The undersigned concludes, after reviewing Mr. Culbertson’s Main Brief, Columbia’s Motion to Strike and Mr. Culbertson’s Answer to Columbia’s Motion to Strike, that Mr. Culbertson impermissibly restated and relied upon these settlement communications in his Main Brief.

Columbia’s request that pages 34-42 of Mr. Culbertson’s Main Brief be stricken and given no weight is granted.

 THEREFORE,

 IT IS ORDERED:

1. That pages 34-42 of the Main Brief of Richard C. Culbertson filed on August 25, 2021, are hereby stricken from the record of this proceeding.

Date: September 2, 2021 /s/

 Mark A. Hoyer

 Deputy Chief Administrative Law Judge

**R-2021-3024296 - PA PUBLIC UTILITY COMMISSION v. COLUMBIA GAS OF PENNSYLVANIA INC**7/14/21

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