*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

AMY E HIRAKIS ESQUIRE800 NORTH 3RD ST STE 204HARRISBURG PA 17102 PA 18101**717-233-1351**ahirakis@nisource.com  
Accepts eService  
*Representing Columbia Gas of Pennsylvania*   
  
MICHAEL W HASSELL ESQUIRE

LINDSAY A BERKSTRESSER ESQUIRE17 N 2ND STREET HARRISBURG PA 17101**717-612-6021**mhassell@postschell.com

lberkstresser@postschell.comAccepts eService  
*Representing Columbia Gas of Pennsylvania*

THEODORE J GALLAGHER ESQUIRENISOURCE CORPORATE SERVICES COMPANY121 CHAMPION WAY SUITE 100CANONSBURG PA 15317**724-416-6355**tjgallagher@nisource.comAccepts eService  
*Representing Columbia Gas of Pennsylvania*ERIKA MCLAIN ESQUIREPO BOX 3265HARRISBURG PA 17105-3265**717-783-6170**ermclain@pa.govAccepts eService  
*Representing Bureau of Investigation & Enforcement* LAURA ANTINUCCI ESQUIRE  
BARRETT SHERIDAN ESQUIRE  
HARRISON W BREITMAN ESQUIRE  
CHRISTY APPLEBY ESQUIRE  
DARRYL A LAWRENCE ESQUIRE  
OFFICE OF CONSUMER ADVOCATE555 WALNUT ST 5TH FLOORHARRISBURG PA 17601**717-783-5048**  
lantinucci@paoca.org  
bsheridan@paoca.org  
hbreitman@paoca.org  
cappleby@paoca.org  
dlawrence@paoca.org  
Accepts eService  
*Representing Office of Consumer Advocate*JOHN SWEET ESQUIRE  
RIA PEREIRA ESQUIREPA UTILITY LAW PROJECT118 LOCUST STREETHARRISBURG PA 17101**717-701-3837**jsweetpulp@palegalaid.net  
rpereirapulp@palegalaid.netAccepts eService  
*Representing CAUSE-PA*TODD S STEWART ESQUIREHAWKE MCKEON AND SNISCAK LLP100 NORTH TENTH STREETHARRISBURG PA 17101**717-236-1300**tsstewart@hmslegal.com  
Accepts eService  
*Representing NGS Parties*STEVEN GRAY ESQUIRE

TERESA REED WAGNER ESQUIRE  
300 NORTH 2ND STREET SUITE 202HARRISBURG PA 17101**717-783-2525**  
Via e-mail only due to Emergency Order at M-2020-3019262[sgray@pa.gov](mailto:sgray@pa.gov)  
tereswagne@pa.gov  
*Representing Office of Small Business Advocate*

CHARIS MINCAVAGE ESQUIRE KENNETH R. STARK ESQUIRE MCNEES WALLACE & NURICK LLC 100 PINE STREET

P.O. BOX 1166

HARRISBURG, PA 17108-1166

**717 232-8000** [cmincavage@mcneeslaw.com](mailto:cmincavage@mcneeslaw.com) [kstark@mcneeslaw.com](mailto:kstark@mcneeslaw.com)

*Representing CII*

JOSEPH L VULLO ESQUIRE

1460 WYOMING AVENUE

FORTY FORT PA 18704

570-288-6441

[jlvullo@bvrrlaw.com](mailto:jlvullo@bvrrlaw.com)

*Representing Pennsylvania Weatherization Providers Task Force, Inc*.  
BRETT MERCURI60 RIDGEWOOD DRIVEMCDONALD PA 15057  
[brett\_mercuri@yahoo.com](mailto:brett_mercuri@yahoo.com)  
Accepts eService

THOMAS J. SNISCAK, ESQUIRE

WHITNEY E. SNYDER, ESQUIRE

BRYCE R. BEARD, ESQUIRE

HAWKE MCKEON AND SNISCAK LLP

100 NORTH TENTH STREET

HARRISBURG PA 17101

Accepts eService

*Representing The Pennsylvania State University*

RICHARD CULBERTSON

1430 BOWER HILL ROAD

PITTSBURGH PA 15243

**609-410-0108**

Accepts eService

RONALD LAMB

221 RADCLIFFE ST

PITTSBURGH PA 15204

**312-498-6780**

[quraiskyzz@gmail.com](mailto:quraiskyzz@gmail.com)

Accepts eService