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September 7, 2021

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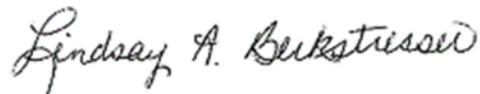
**Re: PA Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.  
Docket No. R-2021-3024296**

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Dear Secretary Chiavetta:

Attached for filing is the Reply Brief of Columbia Gas of Pennsylvania, Inc. in the above-referenced proceeding. Copies will be provided per the Certificate of Service.

Respectfully submitted,



Lindsay A. Berkstresser

LAB/kl  
Attachment

cc: Honorable Mark A. Hoyer (w/attachment)  
Certificate of Service

## CERTIFICATE OF SERVICE

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

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Date: September 7, 2021

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

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Lindsay A. Berkstresser

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|  |   |            |                |
|--|---|------------|----------------|
| Pennsylvania Public Utility Commission | : | Docket No. | R-2021-3024296 |
| Office of Consumer Advocate            | : |            | C-2021-3025078 |
| Office of Small Business Advocate      | : |            | C-2021-3025257 |
| 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.

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

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## TABLE OF CONTENTS

|   | Page |
|---|------|
| I. INTRODUCTION .....   | 1    |
| II. APPLICABLE LEGAL STANDARDS .....  | 2    |
| III. ARGUMENT .....   | 3    |
| A. SUBSTANTIAL EVIDENCE OF RECORD SUPPORTS COLUMBIA’S CLAIM AND THE REVENUE INCREASE AGREED TO BY THE JOINT PETITIONERS IN THE SETTLEMENT. ....         | 3    |
| B. MR. CULBERTSON’S CLAIMS REGARDING AUDITS AND INTERNAL CONTROLS ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE AND ARE IRRELEVANT TO THIS PROCEEDING. .... | 5    |
| C. MR. CULBERTSON’S CLAIMS REGARDING COLUMBIA’S RATE BASE AND PIPELINE REPLACEMENTS ARE IRRELEVANT AND ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.....   | 8    |
| D. MR. CULBERTSON’S CLAIMS REGARDING SAFETY ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.....  | 10   |
| E. MR. CULBERTSON’S CLAIMS REGARDING SERVICE LINES ARE NOT PROPERLY BEFORE THE COMMISSION IN THIS CASE.....   | 11   |
| F. MR. CULBERTSON HAS NO STANDING TO REQUEST RELIEF ON BEHALF OF ANOTHER COLUMBIA CUSTOMER TO WHICH MR. CULBERTSON HAS NO RELATIONSHIP.....             | 12   |
| G. MR. CULBERTSON’S ALLEGATION THAT COLUMBIA REFUSED TO PARTICIPATE IN DISCOVERY IS WRONG. ....   | 13   |
| IV. CONCLUSION.....   | 15   |

## TABLE OF AUTHORITIES

### Page(s)

### Pennsylvania Court Decisions

|   |    |
|---|----|
| <i>Elkin v. Bell Tel. Co. of Pa.</i> ,<br>420 A.2d 371 (Pa. 1980) .....   | 12 |
| <i>Feingold v. Bell of Pa.</i> ,<br>383 A.2d 791 (1977) .....   | 12 |
| <i>Met-Ed Indus. Users Group v. Pa. PUC</i> ,<br>960 A.2d 189 (Pa. Cmwlt. 2008) .....   | 10 |
| <i>Ostrov v. I.F.T., Inc.</i> ,<br>586 A.2d 409 (Pa. Super. 1991) .....   | 12 |
| <i>Poorbaugh v. Pennsylvania Public Utility Commission</i> ,<br>666 A.2d 744 (Pa. Cmwlt. 1995) .....  | 12 |
| <i>Samuel J. Lansberry, Inc. v. Pa. PUC</i> ,<br>578 A.2d 600 (Pa. Cmwlt. 1990) .....   | 9  |
| <i>Waddington v. Pennsylvania Public Utility Commission</i> ,<br>670 A.2d 199 (Pa. Cmwlt. 1995), <i>alloc. denied</i> , 678 A.2d 368 (Pa. 1996) ..... | 13 |
| <i>William Penn Parking Garage, Inc. v. City of Pittsburgh</i> ,<br>464 Pa. 168, 346 A.2d 269 (1975) .....  | 13 |

### Pennsylvania Administrative Agency Decisions

|   |       |
|---|-------|
| <i>Margaret Katz and Alan Katz on behalf of Michael Katz v. PPL Electric Utilities Corporation</i> ,<br>Docket No. F-2010-2211384, 2011 Pa. PUC LEXIS 825 (Initial Decision<br>February 17, 2011; Final Order June 22, 2012) .....  | 13    |
| <i>Landlord Service Bureau, Inc. v. Equitable Gas Co.</i> ,<br>79 Pa. P.U.C. 342 (1993) .....   | 13    |
| <i>Manufacturers' Association of Erie v. City of Erie - Bureau of Water</i> ,<br>50 Pa. P.U.C. 43 (1976) .....  | 13    |
| <i>Petition of Columbia Gas of Pennsylvania, Inc. for Approval of a Major<br/>Modification to its Existing Long-Term Infrastructure Improvement Plan and<br/>Approval of its Second Long-Term Infrastructure Improvement Plan</i> ,<br>Docket No. P-2017-2602917 <i>et. al.</i> , Order ..... | 9, 10 |

|  |    |
|--|----|
| <i>Pa. P.U.C. v. Breezewood Telephone Company,</i><br>Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (January 31, 1991) .....  | 4  |
| <i>Pa. P.U.C. v. PECO,</i><br>Docket No. R-891364<br>1990 Pa. PUC LEXIS 155 (May 16, 1990) .....   | 4  |
| <i>Pa. PUC et al. v. PPL Electric Utilities Corp.,</i><br>Docket Nos. R-00072155, 2007 Pa. PUC LEXIS 58 (Recommended Decision<br>October 19, 2007; Order entered December 6, 2007) .....   | 5  |
| <i>Pa. PUC v. Aqua Pennsylvania, Inc.,</i><br>Docket Nos. R-2018-3003558, 2019 Pa. PUC LEXIS 170<br>(Order entered May 9) .....  | 5  |
| <i>Petitions of West Penn Power Company; Allegheny Ludlum Corp. v. West Penn<br/>Power Company,</i><br>Docket Nos. P-910511, et al., 1992 Pa. PUC LEXIS 14 (Order entered March<br>19, 1992) citing <i>Feingold v. Bell of Pa.</i> , 383 A.2d 791 (1977) ..... | 2  |
| <i>Re Equitable Gas Co.,</i><br>76 Pa. P.U.C. 23 (1992) .....  | 13 |
| <i>Taylor v. Pennsylvania American Water Company,</i><br>Docket No. C-2009-2083013, 2009 Pa. PUC LEXIS 952 (Initial Decision<br>February 11, 2009; Order June 18, 2009) .....  | 12 |

### **Federal Statutes and Regulations**

|                               |   |
|-------------------------------|---|
| 15 U.S.C. § 717(a), (b) ..... | 2 |
| 15 U.S.C. § 717(c) .....      | 2 |
| 18 C.F.R. § 201 .....         | 2 |

### **Pennsylvania Statutes and Regulations**

|   |      |
|---|------|
| 42 Pa.C.S. § 2524 .....                 | 12   |
| 52 Pa. Code .....                       | 13   |
| 52 Pa. Code §§1.1, <i>et seq.</i> ..... | 2    |
| 52 Pa. Code § 5.342(c) .....            | 14   |
| 52 Pa. Code § 53.53 .....               | 3, 6 |
| 52 Pa. Code § 59.37 .....               | 8    |

|  |   |
|--|---|
| 52 Pa. Code § 59.42 .....                | 2 |
| 52 Pa. Code § 69.406 .....               | 5 |
| 66 Pa. C.S. §§ 101, <i>et seq.</i> ..... | 2 |

### **Other Authorities**

|   |   |
|---|---|
| Management and Operations Audit of Columbia Gas of Pennsylvania, Inc.,<br>Docket No. D-2019-03011582 (Issued June 2020, available at<br><a href="https://www.puc.pa.gov/pcdocs/1670369.pdf">https://www.puc.pa.gov/pcdocs/1670369.pdf</a> ..... | 6 |
|---|---|



## **I. INTRODUCTION**

Pursuant to the procedural schedule adopted in this proceeding, Columbia Gas of Pennsylvania, Inc. (“Columbia” or the “Company”) and Richard C. Culbertson filed Main Briefs on August 25, 2021. The Main Briefs addressed the issues raised by Mr. Culbertson in this proceeding.

On August 26, 2021, Columbia filed a Motion to Strike pages 34-42 of Mr. Culbertson’s Main Brief because it impermissibly quotes a settlement discussion between Mr. Culbertson and counsel for Columbia. In its Motion to Strike, Columbia requested expedited treatment of the Motion, given the approaching due date for reply briefs. On August 26, 2021, Administrative Law Judge Hoyer (“ALJ Hoyer” or the “ALJ”) issued a Ninth Interim Order requiring parties to file answers to Columbia’s Motion to Strike by August 30, 2021. On August 30, 2021, Mr. Culbertson filed an Answer to Columbia’s Motion to Strike. On September 2, 2021, ALJ Hoyer issued the Tenth Interim Order granting Columbia’s Motion to Strike pages 34-42 of Mr. Culbertson’s Main Brief from the record in this proceeding.

Columbia hereby files its Reply Brief in response to the Main Brief filed by Mr. Culbertson. Columbia anticipated many of the arguments raised by Mr. Culbertson in his Main Brief and has already addressed these arguments in the Company’s Main Brief. Columbia’s Reply Brief does not seek to repeat these arguments and responds only to new arguments raised in Mr. Culbertson’s Main Brief. Simultaneously with Columbia’s Reply Brief, the Company is also submitting a Joint Petition for Settlement in accordance with the procedural schedule.

For the reasons explained herein and in Columbia’s Main Brief, Mr. Culbertson’s claims are irrelevant to this base rate proceeding and are not supported by substantial evidence. Therefore, Mr. Culbertson’s Complaint should be dismissed in its entirety and with prejudice.

## II. APPLICABLE LEGAL STANDARDS

Columbia provided an explanation of the legal standards that are applicable to this case in the Company's Main Brief. *See* Columbia MB, pp. 4-7. In his Main Brief, Mr. Culbertson cites several statutes, regulations and other authorities that he claims "apply to the requirements to achieve just and reasonable rates and are considered conclusion of law that is relevant to this case." Culbertson MB, p. 8.<sup>1</sup> However, Mr. Culbertson provides no explanation as to how these standards are relevant to the issues in this base rate proceeding. In fact, the majority of the standards cited by Mr. Culbertson are irrelevant to this base rate proceeding and are outside the scope of the Commission's authority to administer and enforce. *See Petitions of West Penn Power Company; Allegheny Ludlum Corp. v. West Penn Power Company*, Dockets Nos. P-910511, et al., 1992 Pa. PUC LEXIS 14 (Order entered March 19, 1992) at \*22 (Commission has only those powers which the legislature confers upon it and must act within the scope of that authority) citing *Feingold v. Bell of Pa.*, 383 A.2d 791 (1977). For example, Mr. Culbertson quotes, without any explanation of relevance, several constitutional provisions and even cites to criminal laws, which are clearly outside the scope of this proceeding before the Commission. Culbertson MB, pp. 8, 15-17.

Mr. Culbertson cites to federal laws and several provisions of the Natural Gas Act, which are enforced by the Federal Energy Regulatory Commission ("FERC"). Culbertson MB, pp. 8-14. Columbia is subject to the requirements of the Public Utility Code, 66 Pa. C.S. §§ 101, *et seq.*, and the Commission's regulations, 52 Pa. Code §§1.1, *et seq.*, and is not generally subject to FERC regulation.<sup>2</sup> *See* 15 U.S.C. § 717(a),(b) (Natural Gas Act regulates the transportation and sale of

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<sup>1</sup> Mr. Culbertson's Main Brief contains no pagination. The references to the pages in Mr. Culbertson's Main Brief are based upon the pdf version of the Main Brief that was received from Mr. Culbertson.

<sup>2</sup> Columbia is subject to the FERC Uniform System of Accounts. *See* 18 C.F.R. § 201; 52 Pa. Code § 59.42. Also, by virtue of Pa. Code § 59.33(b), Columbia is subject to Federal pipeline safety laws and regulations that are enforced by this Commission. However, as discussed below in this Reply Brief, Mr. Culbertson has failed to sustain his burden of proof regarding his allegations of safety violations by Columbia.

gas in interstate commerce) and 15 U.S.C. § 717(c) (reserving jurisdiction over intrastate sales to the state commissions). There is no record evidence that Columbia transports gas in interstate commerce under the Natural Gas Act. Mr. Culbertson also cites to several provisions of the Code of Federal Regulations that are applicable to federal government agencies. Culbertson MB, pp. 10-11. Columbia is not a federal agency. These references are irrelevant to the ALJ's and the Commission's determinations in this base rate proceeding.

### **III. ARGUMENT**

#### **A. SUBSTANTIAL EVIDENCE OF RECORD SUPPORTS COLUMBIA'S CLAIM AND THE REVENUE INCREASE AGREED TO BY THE JOINT PETITIONERS IN THE SETTLEMENT.**

In his Main Brief, Mr. Culbertson asserts that an investigation to determine the reasonableness of Columbia's requested rate increase has not occurred as required by the Commission's Order entered on May 6, 2021, suspending Columbia's proposed tariff supplement and opening an investigation ("Suspension Order"). Culbertson MB, pp. 6-7. Based on his belief that an investigation has not occurred, Mr. Culbertson claims that ALJ Hoyer cannot issue a reliable recommendation to the Commission. Culbertson MB, pp. 6-7. Mr. Culbertson is incorrect with respect to his assertion that there has been no investigation of Columbia's proposed rate increase.

Columbia's filing has been subject to an extensive and detailed investigation by eight other active parties in this proceeding. To start, Columbia provided thousands of pages of material supporting its claim in accordance with the Commission's regulations and filing requirements for a proposed general rate increase in excess of \$1 million. 52 Pa. Code § 53.53. *See* Columbia Statement Nos. 1-14; Columbia Exhibit Nos. 1-17; 101-117 and 400-414; Columbia Standard Data Responses COS 1-21, ROR 1-23 and RR 1-55. Columbia has responded to over 800 formal interrogatories, including subparts, from the various parties. Multiple expert witnesses have

reviewed Columbia's filing information and the testimony of Columbia's witnesses and have submitted their own testimony analyzing Columbia's case. Several public input hearings and a technical evidentiary hearing were held to hear public opinion and to examine Columbia's case. A thorough investigation of Columbia's requested rate increase has occurred, and a comprehensive evidentiary record exists upon which the ALJ and the Commission can make a ruling in this case. There has been no failure to fulfill any legal requirements with respect to this case as Mr. Culbertson incorrectly claims.

Mr. Culbertson also asserts that there is not reasonable assurance that the rates agreed to in the Settlement are just, reasonable and lawful. Culbertson MB, pp. 6-7. However, Mr. Culbertson has provided no factual basis to overcome the substantial evidence of record supporting Columbia's claimed revenue requirement and the lesser rate increase agreed to by the parties to the Settlement. Although the utility seeking a rate increase has the ultimate burden of proof, a party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *See, e.g., Pa. P.U.C. v. PECO*, Docket No. R-891364, *et al.*, 1990 Pa. PUC LEXIS 155 (May 16, 1990); *Pa. P.U.C. v. Breezewood Telephone Company*, Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (January 31, 1991).<sup>3</sup> Mr. Culbertson presented no evidence challenging any specific aspect of Columbia's case, including the detailed information provided regarding the Company's rate base, capital investments and operation and maintenance ("O&M") expenses. *See* Columbia Exhibit No. 108 and Columbia Exhibit No. 104. Mr. Culbertson also did not challenge any of the evidence presented by the other active parties to this proceeding who are parties to the Settlement. Contrary to Mr. Culbertson's opinion, the evidence of record does provide reasonable assurance that the

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<sup>3</sup> Refer to pages 4-7 of Columbia's Main Brief for a full explanation of the burden of proof in this proceeding.

Settlement produces rates that are just and reasonable, as will be further detailed in the parties' statements in support that accompany the Settlement.

The Commission has accepted settlements as satisfying the requirements of the Public Utility Code and the Commission's regulations and orders on numerous occasions. *See, e.g., Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket Nos. R-2018-3003558 et al., 2019 Pa. PUC LEXIS 170 (Order entered May 9, 2019) (denying exceptions to recommended decision and approving settlement of all issues without modification); *Pa. PUC et al. v. PPL Electric Utilities Corp.*, Docket Nos. R-00072155 et al., 2007 Pa. PUC LEXIS 58 (Recommended Decision October 19, 2007; Order entered December 6, 2007) (approving settlement of rate case). Mr. Culbertson has been provided his due process rights to challenge Columbia's evidence of record<sup>4</sup> and will be provided an opportunity to comment on and object to the Settlement. *See* 52 Pa. Code § 69.406. However, he has offered no factual evidence or arguments to rebut the substantial evidence of record presented by Columbia and the other active parties to this case that fully supports the Settlement.

**B. MR. CULBERTSON'S CLAIMS REGARDING AUDITS AND INTERNAL CONTROLS ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE AND ARE IRRELEVANT TO THIS PROCEEDING.**

Mr. Culbertson's Main Brief is heavily focused on his issues with Columbia's and the Commission's audits and internal controls. Culbertson MB *passim*. Mr. Culbertson makes several arguments regarding audits and internal controls throughout his Main Brief, all of which are irrelevant and lack evidentiary support.

Mr. Culbertson cites Section 10 (Audits) of Article VIII (Taxation and Finance) of the Constitution of Pennsylvania, which sets forth audit requirements for entities that receive funding

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<sup>4</sup> Mr. Culbertson engaged in discovery, submitted direct and surrebuttal testimony, and cross-examined Columbia's witness, Mr. Kempic, at the evidentiary hearing held in this proceeding.

from the Pennsylvania state government. Culbertson MB, p. 25. Columbia is not subject to this constitutional provision because it does not receive funding from the Pennsylvania state government, and therefore this reference is irrelevant to this proceeding. Moreover, as explained in Columbia's Main Brief, the Company has been and continues to be audited by the Commission pursuant to Section 516 of the Public Utility Code. *See* Columbia MB, p. 17.

Mr. Culbertson incorrectly asserts that "independent audits were simply not conducted either by the Commission or an independent third party." Culbertson MB, p. 27. Based on his view of insufficient auditing, Mr. Culbertson argues that there is no assurance of just and reasonable rates. Culbertson MB, p. 27. Mr. Culbertson fails to recognize that Columbia does undergo auditing by the Commission and by independent auditors as explained in Columbia's Main Brief. *See* Columbia MB, pp. 17-18. In addition to audits prepared by independent NiSource auditors and the Commission's Bureau of Audits, the Commission's regulations provide for the submission of detailed materials covering all aspects of Columbia's operations. *See* 52 Pa. Code § 53.53. There is no basis for Mr. Culbertson's claims regarding insufficient auditing or lack of sufficient information upon which to base a finding of just and reasonable rates.

Relatedly, Mr. Culbertson argues that the use of generally accepted auditing standards is required to meet Columbia's burden of proof in this case. MB, p. 30. Although Columbia has been and continues to be audited, and the audit results are available for examining in a rate case, audits are not a necessary requirement to meet Columbia's burden of proof.<sup>5</sup>

Many of Mr. Culbertson's arguments regarding audits and internal controls pertain to the Government Accountability Office ("GAO") "Green Book" and "Yellow Book." Culbertson MB *passim*. The Yellow Book and Green Book set forth the audit and internal control standards for

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<sup>5</sup> *See, e.g.*, Management and Operations Audit of Columbia Gas of Pennsylvania, Inc., Docket No. D-2019-3011582 (Issued June 2020, available at <https://www.puc.pa.gov/pcdocs/1670369.pdf>).

government agencies. As Columbia explained in its Main Brief, Mr. Culbertson's arguments related to the Green Book and Yellow Book are irrelevant to this proceeding because Columbia is not a government agency, and the GAO Green Book and Yellow Book are not applicable to Columbia. Columbia MB, p. 18. The Public Utility Code, Commission's regulations and Commission orders do not require Columbia to use the internal controls set forth in the Green Book or the auditing standards set forth in the Yellow Book. Columbia MB, p. 18.

In his Main Brief, Mr. Culbertson specifically requests the Commission to rule that Columbia must use the GAO Green Book and the GAO Yellow Book. Culbertson MB, p. 48. However, as previously explained, Mr. Culbertson's requests regarding the GAO Green Book and GAO Yellow Book are irrelevant because they pertain to internal controls and audits of government agencies, and as a non-governmental agency, Columbia is not bound by them. Mr. Culbertson criticizes the Commission's audits because, according to Mr. Culbertson, the "Commission's last audit of Columbia issued in 2020 was not conducted in accordance with the GAO Yellow Book." Culbertson MB, p. 26. Not only is this argument irrelevant, but Columbia does not have authority over how the Commission conducts audits. Mr. Culbertson also asserts that the "Commission must reinvent itself using the GAO Green Book." Culbertson MB, p. 48. However, the internal controls within the Commission are irrelevant to this case.

Mr. Culbertson requests that the Commission rule that "annual audits must include an assurance statement and identification of and [sic] material weaknesses, significant deficiencies and deficiencies, and a corrective action plan with dates of progress – if any." Culbertson MB, p. 33. Audit requirements are not a relevant issue for this base rate case. The Commission determines audit issues and matters such as action plans in the context of Commission audits. *See, e.g.*, Columbia Exhibit No. MRK-1.

Mr. Culbertson requests that the Commission rule that Columbia must use the Internal Control – Integrated Framework (2013) Committee of Sponsoring Organizations (“COSO”) of the Treadway Commission. Culbertson MB, p. 48. Columbia does use the COSO Internal Control Framework, as confirmed by the record in this case. *See* Columbia MB, p. 19. Otherwise, Mr. Culbertson’s references to internal controls are not relevant to the burden of proof in this case.

Mr. Culbertson also alleges that Columbia “refused to provide substantiation” that it uses the COSO Internal Control Framework. Culbertson MB, p. 30. Mr. Culbertson has offered no evidence to support this assertion, and it is incorrect. Columbia did respond to an interrogatory from Mr. Culbertson that asked about Columbia’s internal controls. Therefore, Mr. Culbertson’s assertion that Columbia “refused to provide substantiation” is completely baseless.

**C. MR. CULBERTSON’S CLAIMS REGARDING COLUMBIA’S RATE BASE AND PIPELINE REPLACEMENTS ARE IRRELEVANT AND ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.**

Mr. Culbertson compares the size of Columbia’s rate base to the rate bases of its sister utilities in other states and concludes that Columbia’s rate base is unreasonable because rate base per customer is greater in Pennsylvania as compared to other states. Culbertson MB, pp. 28-29. As Columbia fully explained in its Main Brief, there are many reasons why rate base per customer can differ from state to state and among different companies. Columbia MB, pp. 20-21. The amount of rate base per customer compared among different utilities, in different states with different laws is irrelevant to whether Columbia’s rate base is prudent. Mr. Culbertson’s comparison of rate bases is irrelevant and provides no support for his argument that Columbia’s rate base is unreasonable. Further, in accordance with the Code, Columbia maintains records of its plant in service. *See* 52 Pa. Code § 59.37. No party, including Mr. Culbertson, has challenged any particular existing asset as being imprudently constructed or at an excessive cost. Mr. Culbertson has failed to present any relevant evidence to overcome the substantial evidence of



record supporting Columbia's rate base. *See* Columbia Exhibit No. 108; Columbia Statement No. 6. Therefore, his arguments should not be considered. *See Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990) (meeting burden of proof requires evidence that is substantial and legally credible).

Mr. Culbertson also claims that costs resulting from pipeline replacements are not necessary costs and that Columbia's accelerated pipeline replacement is unreasonable. Culbertson MB, p. 46. Mr. Culbertson did not present any evidence to support his allegations regarding Columbia's pipeline replacement. Specifically, he presented no evidence that the pipeline replacement work completed by Columbia was unnecessary, nor did he challenge any particular capital cost or O&M expense associated with pipeline replacement. In contrast, Columbia submitted substantial evidence regarding the need and scope of its pipeline replacement efforts. *See* Columbia Statement No. 1, pp. 5-8; Columbia Statement No. 6, pp. 3-4 and Columbia Exhibit No. NMS-1; Columbia Statement No. 7, pp. 6-13; Columbia Statement No. 14, pp. 27-34. Moreover, the Commission has reviewed Columbia's main replacement program numerous times in the context of base rate cases, Long Term Infrastructure Improvement Plan ("LTIIIP") filings, and annual asset optimization plan ("AOP") filings. As the Commission noted in its Order approving Columbia's Second LTIIIP filing:

Upon review of the Second LTIIIP, the Commission finds that Columbia's Second LTIIIP fulfills the requirements of 52 Pa. Code §§ 121.3(a)(5)-(6) by providing the projected annual expenditures and means to finance the expenditures, and a description of the manner in which infrastructure replacement will be accelerated *and how repair, improvement, or replacement will ensure and maintain adequate, efficient, safe, reliable, and reasonable service to customers.*

*Petition of Columbia Gas of Pennsylvania, Inc. for Approval of a Major Modification to its Existing Long-Term Infrastructure Improvement Plan and Approval of its Second Long-Term*

*Infrastructure Improvement Plan*, Docket No. P-2017-2602917, *et. al.*, Order at p. 21 (emphasis added).

Mr. Culbertson's unsupported allegations regarding pipeline replacement should be disregarded.

**D. MR. CULBERTSON'S CLAIMS REGARDING SAFETY ARE NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.**

In his Main Brief, Mr. Culbertson makes various broad and unsupported allegations regarding safety.

Mr. Culbertson claims that there are "current deficiencies and weaknesses of which must be recognized and corrected." Culbertson MB, p. 45. Specifically, Mr. Culbertson requests that the Commission rule that Columbia must correct safety deficiencies in records, processes, and facilities. Culbertson MB, p. 33. However, he has offered no evidence concerning any safety deficiencies or weaknesses, and there is no record evidence that any safety deficiency or weakness exists. Conversely, Columbia submitted substantial evidence regarding its ongoing efforts to maintain and improve system safety. *See* Columbia Statement No. 1, pp. 5-20, 38-41; Columbia Statement No. 7, pp. 6-13; Columbia Statement No. 14, pp. 13-39. Mr. Culbertson has failed to support this request with substantial evidence, and therefore, his requested relief should be denied.

Mr. Culbertson alleges that there is an undue risk to public safety because of the location of Columbia's meters and the size of its service lines. Culbertson MB, p. 33. There has been no evidence presented in this proceeding that Columbia does not comply with safety requirements or that Columbia's meter placement or service line size is unsafe. Mr. Culbertson's allegations are not supported by any evidence whatsoever and should be dismissed. *See Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (finding of fact necessary to support an adjudication must be based on substantial evidence). Furthermore, this contention is another

example of Mr. Culbertson's attempt to relitigate a pending customer complaint proceeding in which he has challenged Columbia's service line replacement procedures. See Section III E, *infra*.

Mr. Culbertson also requests that the Commission order "withdrawal of the Plumbers Guide as it declares untruths and harms property owners and private plumbing contractors." Culbertson MB, p. 33. The Plumbers Guide is intended to establish standards for the installation of customer-owned facilities that are connected to Columbia's natural gas system. Absent these standards, customers could have unsafe home gas facilities that could not be connected to Columbia's system. There is no record evidence to support Mr. Culbertson's claim that the Plumbers Guide is harmful or that it should be withdrawn. His statement is a broad allegation without any factual support and should be disregarded.

Finally, Mr. Culbertson requests that the Commission order Columbia to provide information regarding how it maintains the integrity of its distribution system in accordance with industry standards on safety management systems. Culbertson MB, p. 48. However, as explained in Columbia's Main Brief, Columbia does follow the applicable industry standards, including implementation of American Petroleum Institute Recommended Practice 1173– Pipeline Safety Management Systems ("API RP 1173"). Columbia St. No. 14, p. 24; Columbia St. No. 1-R, pp. 9-10. See Columbia MB, pp. 21-22.

Mr. Culbertson has failed to meet his burden of proof or present any evidence that Columbia's distribution system is unsafe.

**E. MR. CULBERTSON'S CLAIMS REGARDING SERVICE LINES ARE NOT PROPERLY BEFORE THE COMMISSION IN THIS CASE.**

In his Main Brief, Mr. Culbertson references Columbia's right to access to private property and the Public Utility Code's definitions regarding ownership of service lines. Culbertson MB, pp. 33-35. Mr. Culbertson also references the disconnection of a service line in 2016 at a property

that Mr. Culbertson now owns. Culbertson MB, p. 41. Mr. Culbertson is attempting to re-raise issues regarding service lines that are not being decided in this base rate proceeding. In its Main Brief, Columbia explained that these claims are not properly before the Commission in this case because they are the subject of a separate complaint proceeding that is currently pending before the Commission. *See* Columbia MB, pp. 8-13. Columbia fully addressed this issue in its Main Brief and will not repeat those arguments here. For the reasons more fully explained in Columbia's Main Brief, Mr. Culbertson's claims regarding service lines should be dismissed.

**F. MR. CULEBRTSON HAS NO STANDING TO REQUEST RELIEF ON BEHALF OF ANOTHER COLUMBIA CUSTOMER TO WHICH MR. CULBERTSON HAS NO RELATIONSHIP.**

In his Main Brief, Mr. Culbertson requests that the Commission conduct an investigation and order Columbia to provide "restitution" to another former customer, Mr. Hicks, based on Mr. Culbertson's belief that Columbia improperly disconnected Mr. Hicks' service line. Culbertson MB, pp. 42, 48. As Columbia fully explained in its Main Brief, the Company complied with all applicable laws, regulations, and the Company's tariff when it disconnected Mr. Hicks' service line. Columbia MB, pp. 13-17. Therefore, an investigation is not warranted, and there is no basis to award the requested "restitution."<sup>6</sup>

Moreover, Mr. Culbertson does not have standing to request relief on behalf of another former customer to whom Mr. Culbertson has no relationship.<sup>7</sup> "Generally, the Commission has

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<sup>6</sup> Not only is Mr. Culbertson's request for restitution on behalf of Mr. Hicks meritless, the Commission does not have authority to award damages. *See Taylor v. Pennsylvania American Water Company*, Docket No. C-2009-2083013, 2009 Pa. PUC LEXIS 952, \*13 (Initial Decision February 11, 2009; Order June 18, 2009) ("There is no question that the Commission lacks authority to award damages.") citing *Terminato v. Pa. National Insurance Co.*, 645 A.2d 1287 (Pa. 1994); *Elkin v. Bell Tel. Co. of Pa.*, 420 A.2d 371 (Pa. 1980); *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977); *Ostrov v. I.F.T., Inc.*, 586 A.2d 409 (Pa. Super. 1991); *Poorbaugh v. Pennsylvania Public Utility Commission*, 666 A.2d 744 (Pa. Cmwlth. 1995).

<sup>7</sup> To the extent Mr. Culbertson is attempting to formally represent Mr. Hicks in this legal proceeding, it is Columbia's understanding that he does not have the authority to do so. *See* 42 Pa.C.S. § 2524 (prohibiting the unauthorized practice of law).

held that a person or entity has standing when the person or entity has a direct, immediate and substantial interest in the subject matter of a proceeding.” *Margaret Katz and Alan Katz on behalf of Michael Katz v. PPL Electric Utilities Corporation*, Docket No. F-2010-2211384, 2011 Pa. PUC LEXIS 825, \*16-17 (Initial Decision February 17, 2011; Final Order June 22, 2012) citing *Joint Application of Pennsylvania-American Water Co. and Evansburg Water Co.*, Docket Nos. A-212285F0046/47 and A-210870F01 (Ordered entered July 9, 1998); *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975); *Landlord Service Bureau, Inc. v. Equitable Gas Co.*, 79 Pa. P.U.C. 342 (1993); *Re Equitable Gas Co.*, 76 Pa. P.U.C. 23 (1992); *Manufacturers' Association of Erie v. City of Erie - Bureau of Water*, 50 Pa. P.U.C. 43 (1976); *Waddington v. Pennsylvania Public Utility Commission*, 670 A.2d 199 (Pa. Cmwlth. 1995), *alloc. denied*, 678 A.2d 368 (Pa. 1996). Mr. Culbertson has no interest in another former customer’s property or service, and the requirements for standing have not been met. Therefore, Mr. Culbertson’s relief requested on behalf of Mr. Hicks should be denied.

**G. MR. CULBERTSON’S ALLEGATION THAT COLUMBIA REFUSED TO PARTICIPATE IN DISCOVERY IS WRONG.**

Mr. Culbertson wrongly alleges that Columbia “resisted participating in interrogatories” and that “much time is wasted by Columbia’s refusal to participate in good faith discovery.” Culbertson MB, pp. 43-44. However, Columbia answered hundreds of interrogatories from various parties in this proceeding without objection. Some of Columbia’s responses were used as evidence by the other parties in this case. Columbia objected to several of Mr. Culbertson’s interrogatories because they requested material that is irrelevant to this case. Discovery must comply with the Commission’s regulations. *See* 52 Pa. Code Subchapter D (relating to discovery in proceedings before the Commission). Objecting to improper interrogatories is permissible under the Commission’s regulations and does not constitute a failure to participate in discovery.

*See* 52 Pa. Code § 5.342(c). The ALJ correctly ruled that numerous interrogatories from Mr. Culbertson were improper, and Columbia complied with the ALJ's discovery rulings. *See* First Interim Order entered June 25, 2021; Second Interim Order entered June 30, 2021; Third Interim Order entered July 20, 2021; and Fifth Interim Order entered July 27, 2021. Moreover, Columbia did answer all interrogatories from Mr. Culbertson that were not objectionable or where the ALJ did not sustain objections.

#### IV. CONCLUSION

For the foregoing reasons, and as further explained in Columbia's Main Brief, Columbia respectfully requests that the ALJ and Commission dismiss Mr. Culbertson's Complaint at Docket No. C-2021-3026054 in its entirety and with prejudice.

Respectfully submitted,

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