

**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.

September 24, 2021

**MOTION TO PROPERLY RESPOND
TO THE BLACK BOX SETTLEMENT
AGREEMENT AMONG THE
PARTICIPANTS (EXCLUDING
CULBERTSON) RATE CASE.**

TO DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE MARK A. HOYER:

Your Honor since my last submission I have concluded my extensive efforts to participate in this rate case to reach just and reasonable rates for ratepayers were in vain. I was certainly not welcome as a participant... a pro se participant.

Things did not work out for various reasons largely because of my incompetence procedurally as a first-time complainant in a rate case and time and resource constraints.

This rate case was a lost cause. My continued effort would provide no material benefit.

I chose to spend my limited available time on the changes the Commission intends to make on service responsibilities of gas public utilities that include the take over of customer's service line (private property).

After that submission that was provided to the participants of this rate case, I then reviewed the proposed settlement agreement of which Mr. Ronald Lamb, and I were excluded. We were parties of this rate case but were left out of settlement deliberations.

It seems to me Ronald Lamb and I, as parties to the rate case, were excluded by Columbia Gas from the decision-making process. The other parties apparently were silent of our absence. Not invited to participate was disrespectful and unfair. In a jury trial the decision-makers, the members of the jury, have equal rights to deliberate. In the United States, we the people are entitled to due process.

I also believe it was an error on your part that you did not insist that Mr. Lamb and I be part of those settlement discussions. The consensus reached in the settlement was a false consensus.

After reviewing the Settlement Agreement -- it was much different from what I expected and led to believe.

*“Under the Settlement, with only a few select exceptions further explained herein, the settlement revenue requirement is a **“black box”** amount. Under a “black box” settlement, parties do not specifically identify revenues, expenses and return that are allowed or disallowed. Columbia believes that “black box” settlements facilitate agreements, as parties are not required to identify a specific return on equity or identify specific revenues and/or expenses that are allowed or disallowed.”*

I was not informed this settlement would be a “black box settlement” that was material information, deliberately withheld from me.

That type of arrangement changes the objective of achieving just and reasonable rates, to settlement by a subset of the parties that throw out the rule books and wipe away all sins of the past.

As a primer to this rate case, I read the Pennsylvania Public Utility’s publication “Before

the Pennsylvania Public Utility Commission –A GUIDE TO UTILITY RATEMAKING, By former commissioners James H. Cawley and Norman J. Kennard (2018 Edition).

https://www.puc.pa.gov/General/publications_reports/pdf/Ratemaking_Guide2018.pdf

The term “black box” is not used or identified as an option in this PUC Guide.

In over forty years of my involvement in utility and Government contracting I have never come across the term “black box settlement(s)”.

PA Title 66 – the Public Utility Code does not mention black box settlement(s). On the other hand, the Code does provide § 331. ***Powers of commission and administrative law judges. (d) Authority of presiding officers. (6) Hold conferences for settlement or simplification of the issues by consent of the parties.***

I doubt that if you had held settlement conferences with the participants in this rate case you would have excluded Mr. Lamb and me.

I also doubt that such “black box” settlements are legal in Pennsylvania” even though black box settlements may be traditional.

It is also troubling that proper General Accepted Government Audit Standards (financial and performance) are not being used as required as well as the internal control framework as expressed in the GAO Green Book. Who needs internal controls, audits, and accountability if an annual settlement agreement in a black box settlement agreement wipes away potential findings?

Furthermore, part of that settlement agreement includes treating me unfairly – my complaint must be fairly heard – Pennsylvania Constitution -- § 11 *every man... shall have remedy by due course of law, and right and justice administered without sale, denial or delay.*

Judge Hoyer, considering the circumstance of arriving at a settlement using a black box approach and the need for public participation in rate cases to arrive at a just and reasonable rate, I motion that I am granted additional time to address the proposed settlement in this rate case of three weeks. Columbia’s settlement agreement is 183 pages long. That is considerably longer

than my MBA Master's thesis. It takes the necessary time to provide an adequate response.

There certainly is still sufficient time for you to arrive at a recommended decision in this rate case.

It is in the public interest that rate cases of the Pennsylvania Public Utility Commission are perceived as fair to all and in reaching just and reasonable rates.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Richard C. Culbertson', with a stylized, elongated final stroke.

Richard C. Culbertson

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609-410-0108

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission
Request for Comments
Docket L-2020-3019417

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I hereby certify that I have this day served a true copy of comments in response to the Commission's request Docket R-2021-3024296 pertaining changes to service parameters of natural gas public utilities. This Certificate of Service is 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 24th day of September, 2021.

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