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File #: 182466

September 28, 2021

VIA ELECTRONIC FILING

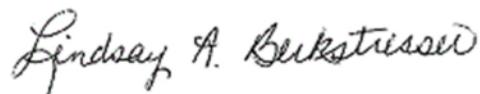
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Attached for filing please find the Answer of Columbia Gas of Pennsylvania, Inc., to Richard Culbertson's September 24, 2021 Motion Requesting Additional Time to Comment on the Joint Petition for Settlement 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 28, 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.

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.

**ANSWER OF COLUMBIA GAS OF PENNSYLVANIA, INC.
TO RICHARD C. CULBERTSON’S SEPTEMBER 24, 2021 MOTION
REQUESTING ADDITIONAL TIME TO COMMENT
ON THE JOINT PETITION FOR SETTLEMENT**

Columbia Gas of Pennsylvania, Inc. (“Columbia” or the “Company”) hereby submits this Answer to the “Motion to Properly Respond to the Black Box Settlement Agreement Among the Participants (Excluding Culbertson) Rate Case,” in which Mr. Culbertson requests an additional three weeks to respond to the Joint Petition for Settlement filed in this case (hereinafter referred to as “Motion”). As explained below, Mr. Culbertson’s Motion should be denied.

I. BACKGROUND

The full procedural history of this case is set forth in the Joint Petition for Settlement filed on September 7, 2021. The background pertinent to Columbia’s Answer to Mr. Culbertson’s Motion is provided below.

On September 7, 2021, Columbia filed the Joint Petition for Settlement and Statements in Support of the Settlement, which resolved all issues except for the issues raised by Mr. Culbertson in this rate case. Columbia, the Pennsylvania Public Utility Commission’s (“Commission”)

Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, Columbia Industrial Intervenors, Shipley Choice, LLC d/b/a Shipley Energy Company and the Retail Energy Supply Association, Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, Pennsylvania Weatherization Providers Task Force, and The Pennsylvania State University were parties to the Joint Petition for Settlement. Mr. Culbertson was not a party to the Joint Petition for Settlement.

On September 8, 2021, Deputy Chief Administrative Law Judge Mark A. Hoyer (“ALJ Hoyer”) issued the “Eleventh Interim Order Setting Deadline for Filing of Objections to Settlement.” In the Eleventh Interim Order, ALJ Hoyer established a deadline of September 17, 2021, for any self-represented complainant to file written objections to or comments regarding the Joint Petition for Settlement.

No written objections to or comments regarding the Joint Petition for Settlement were filed.

On September 24, 2021, one week after the deadline for filing objections or comments, Mr. Culbertson filed his Motion requesting additional time to respond to the Joint Petition for Settlement.

II. THE MOTION FOR ADDITIONAL TIME TO RESPOND TO THE SETTLEMENT SHOULD BE DENIED.

In his Motion, Mr. Culbertson requests that he have an additional three weeks to respond to the Joint Petition for Settlement. Motion, p. 3. There is no reasonable justification for Mr. Culbertson’s request for additional time, and it should be denied. Mr. Culbertson’s request for additional time violates the ALJ’s Eleventh Interim Order, which provided that “Comments or objections must be e-filed with the Commission’s Secretary’s Bureau and served on all parties of record and the undersigned no later than **Friday, September 17, 2021.**” Eleventh Interim Order, p. 2 (emphasis in original). Mr. Culbertson did not provide any compelling reason why he could

not have complied with the deadline set forth in the ALJ's Eleventh Interim Order. Moreover, Mr. Culbertson's request for additional time is untimely. Not only did Mr. Culbertson fail to submit timely comments on and/or objections to the Joint Petition for Settlement, Mr. Culbertson waited until one week after the deadline for filing objections and/or comments regarding the Settlement to submit his request for additional time. Mr. Culbertson's request for additional time should be denied because he has failed to set forth any reasonable justification for his failure to submit a response to the Joint Petition for Settlement by the deadline established in the Eleventh Interim Order.

Mr. Culbertson's Motion also contains various allegations that should not be considered. Mr. Culbertson argues that black box settlements are inappropriate. Motion, pp. 2-3. He also alleges that he did not have an opportunity to engage in settlement negotiations.¹ Motion, pp. 2-3. Mr. Culbertson's arguments should not be considered because they are untimely and violate the Eleventh Interim Order. The Eleventh Interim Order specifically stated that "Comments or objections must be e-filed with the Commission's Secretary's Bureau and served on all parties of record and the undersigned no later than **Friday, September 17, 2021**. *Comments or objections filed after that date will not be considered.*" Eleventh Interim Order, p. 2 (emphasis added). Moreover, these arguments have no merit.

Mr. Culbertson's criticism of the "black box" nature of the Settlement does not justify rejection of the Settlement. Black box settlements facilitate agreements because parties do not specifically identify a return on equity or the revenues and expenses that are allowed or disallowed as part of the agreed upon revenue requirement. The Commission has accepted black box

¹ Mr. Culbertson also references another complainant, Mr. Lamb. Motion, p. 2. Mr. Culbertson does not represent Mr. Lamb and should not be permitted to offer arguments concerning Mr. Lamb.

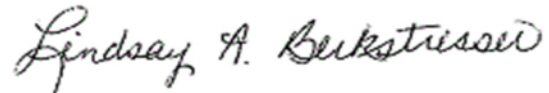
settlements as fulfilling the Public Utility Code and the Commission's regulations on numerous occasions. *See e.g., Pa. PUC v. National Fuel Gas Distribution Corporation*, Docket No. R-2012-2333773, 2013 PA. PUC LEXIS 253 (RD April 5, 2013; Order entered May 23, 2013) (approving black box settlement in its entirety and without modification); *Pa. PUC v. Peoples Natural Gas Company LLC*, Docket No. R-2021-2285985, 2012 Pa. PUC LEXIS 1474 (RD August 29, 2012; Order entered January 26, 2018) (approving black box settlement in its entirety and without modification). The Joint Petitioners to the Settlement submitted Statements in Support of the Joint Petition for Settlement that explain in detail why the Settlement is reasonable, in the public interest and should be approved. Therefore, the fact that the Joint Petition for Settlement is a black box settlement is not a reason to reject the Settlement.

In his Motion, Mr. Culbertson also states that he was excluded from the settlement process. Motion, p. 2. Mr. Culbertson's allegation that he did not have an opportunity to participate in settlement negotiations in this case is incorrect. Contrary to Mr. Culbertson's allegation, Columbia and Mr. Culbertson did engage in settlement negotiations regarding Mr. Culbertson's issues. However, as Columbia advised the ALJ and other parties by e-mail dated August 19, 2021, Columbia and Mr. Culbertson were not able to reach an agreement that would have resulted in a settlement between Mr. Culbertson and Columbia. Therefore, Mr. Culbertson's issues were reserved for litigation, and Columbia and Mr. Culbertson submitted briefs on those issues. The Settlement should not be rejected based on Mr. Culbertson's incorrect allegations that he did not participate in any settlement negotiations.

III. CONCLUSION

WHEREFORE, Columbia Gas of Pennsylvania, Inc. respectfully requests that Mr. Culbertson's Motion be denied.

Respectfully submitted,



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Date: September 28, 2021