

Via Electronic Mail Only

Pennsylvania Public Utility Commission
400 North St, Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission

v.

Columbia Gas of Pennsylvania, Inc.
Docket No. R-2021-3024296

Dear Commissioners:

Enclosed please find my signed Exceptions to the Recommended Decision of the Columbia Gas of Pennsylvania Inc. Rate Case Docket No. R-2021-3024296.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard C Culbertson', with a stylized flourish at the end.

Richard C Culbertson
1430 Bower Hill Road
Pittsburgh, PA 15243
October 19, 2021
eFile

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of my Exceptions to the Recommended Decision as provided to a party of record in this proceeding 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 19th day of October 2021.

SERVICE BY E-MAIL ONLY

Erika L. McLain, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17109-1923

Michael W. Hassell, Esquire
Lindsay A. Berkstresser, Esquire
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601

Amy E. Hirakis, Esquire
NiSource Corporate Services Co.
800 North Third Street
Suite 204
Harrisburg, PA 17102

Theodore J. Gallagher, Esquire
Columbia Gas of Pennsylvania, Inc.
121 Champion Way
Suite 100
Canonsburg, PA 15317

John W. Sweet, Esquire
Ria M. Pereira, Esquire
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Joseph L. Vullo, Esquire
PA Weatherization Providers Task Force, Inc.
1460 Wyoming Avenue
Forty Fort, PA 18704

Todd S. Stewart, Esquire
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101

Charis Mincavage, Esquire
Kenneth R. Stark, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Richard C. Culbertson
1430 Bower Hill Road
Pittsburgh, PA 15243

Harrison W. Breitman
Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
E-Mail: HBreitman@paoca.org

Laura J. Antinucci
Assistant Consumer Advocate
PA Attorney I.D. # 327217
E-Mail: LAntinucci@paoca.org

Darryl A. Lawrence
Senior Assistant Consumer Advocate
AdvocatePA Attorney I.D. # 93682
E-Mail: DLawrence@paoca.org

Ronald Lamb
221 Radcliffe Street
Pittsburgh, PA 15204
quraiskyzz@gmail.com

Thomas J. Sniscak, Esquire
Whitney E. Snyder, Esquire
Bryce R. Beard, Esquire
Hawke McKeon & Sniscak, LLP
100 North Tenth Street
Harrisburg, PA 17101

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138
E-Mail: BSheridan@paoca.org

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAappleby@paoca.org

Counsel for:
Office of Consumer
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-
1923
Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: October 19, 2021

eFile

EXCEPTIONS OF RICHARD C. CULBERTSON – COMPLAINANT
PRO SE, ASSET MANAGEMENT EXPERT¹

Pennsylvania Public Utility Commission	:	R-2021-3024296
Richard C. Culbertson	:	C-2021-3026054

The people of Pennsylvania have not been served well by Columbia Gas of Pennsylvania and the presiding officer of this rate case.

Investigations were ordered in this rate case of proposed and existing rates. The people were promised in a press release an investigation of this proposed annual \$98,000,000 rate increased and an investigation of existing rates of which are orders of magnitude higher than sister utilities in neighboring states. This Recommended Decision by Mark A. Hoyer Deputy Chief Administrative Law Judge was a strict quasi-judicial exercise, but if viewed as I have, the public would not recognize it as an investigation would lead to a just conclusion. For the order to investigate existing rates --- *“this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc.’s **existing rates**, rules, and regulations.* The term “existing” is not included in the 67-page recommendation. Instead, the judge provided a recommendation without investigations.

What was delivered did not follow the required process to achieve the objectives of the Commission’s and the customer’s needs.

¹ As designated in **GAO 19-57. United States Government Accountability Office, 2018. Available from: <https://www.gao.gov/assets/700/695240.pdf>**. Expertise includes many years of senior level experience Lockheed Martin and GE in asset management, Government contracts, Government accounting, policy, compliance, auditing and operations. Senior Fellow and Board Member of Asset Lead Leadership Network, Current Chair of the ASTM International Committee E53 Asset Management, Current Membership Secretary of International Organization for Standardization Technical Committee 251 Asset Management of which he is a representative of American National Standard Institute (ANSI) at international meetings regarding Management Systems Standard ISO 55000 Asset Management. ISO 55000 is a primary reference included in ANSI/API RP 1173 – Pipeline Safety Management Systems of which as been adopted my Columbia Gas of Pennsylvania. Most significant accomplishment he was the primary author and technical leader for standard ASTM E 2279 Guiding Principles of Property Asset Management since 2013 of which has been adopted by the U.S. Department Defense in DOD Instruction 5000.64 <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/500064p.pdf> Finally, he is a real estate investor that has several residential homes serviced by Columbia Gas of Pennsylvania.

EXCEPTIONS OF RICHARD C. CULBERTSON, COMPLAINANT

No. and Page(s)	Exception.
1 Page 62	<p>“Columbia’s filing has been subject to an extensive and detailed investigation by eight other active parties in this proceeding.”</p> <p>That is not a true statement. Due diligence in an annual \$98,000,000 rate case requires a true investigation. Columbia’s financials have not been audited in accordance with generally accepted auditing standards – which is provided in what is known as the GAO Yellow Book.</p> <p>What eight active parties conducted extensive and detailed of Columbia’s filing? Culbertson certainly did not do a detailed and extensive investigation. Investigations are performed by investigators. I am not aware of any professionally trained investigator or auditor among any of the parties.</p> <p>Those who investigate if cost is just and reasonable are properly referred to as financial auditors. Financial auditors are trained and perhaps certified as a certified public accountant or the like.</p> <p>Usually investigations and audits end with the opinion of the investigator or auditor. Where are those ending opinions by these investigators? Culbertson is unaware of any such statement.</p> <p>There were speculations – speculations or prognostications are not investigations.</p> <p>There are generally accepted practices for audits and investigations.</p> <p>What was expected by the Commission and public?</p>

“PUC to Investigate Rate Increase Request by Columbia Gas, Published on 5/6/2021” <https://www.puc.pa.gov/press-release/2021/puc-to-investigate-rate-increase-request-by-columbia-gas>

*“The changes proposed by Columbia Gas would produce an overall revenue increase of approximately \$98.3 million per year. Under this proposal the monthly bill for a residential customer using 70 therms per month would increase from \$100.77 to \$115.37 **(14.49%)**.*

*Today’s action by the Commission suspends the rate increase request for up to seven months and the case will now be assigned to the PUC’s Office of Administrative Law Judge for an **investigation** and recommended decision.”*

The Commission’s ORDER of May 6, 2021.

*“Columbia Gas stated that the need for the requested increase is driven principally by increases in operating expenses and the return and depreciation requirements associated with ongoing plant additions and replacements under Columbia Gas’ **accelerated** pipeline replacement program. ...*

*Investigation and analysis of the **proposed** tariff filing and the supporting data indicate that the proposed changes in rates, rules, and regulations may be unlawful, unjust, unreasonable, and contrary to the public interest. It also appears that consideration should be given to the reasonableness of the Columbia Gas of Pennsylvania, Inc.’s **existing rates**, rules, and regulations; **THEREFORE,***

IT IS ORDERED:

1. *That an investigation on Commission motion be, and hereby is, instituted to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Columbia Gas of Pennsylvania,*

Inc.'s proposed...

4. That *this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc.'s existing rates, rules, and regulations*

Pennsylvania Public Utility Commission. Both organizations have strayed from their primary mission, my exceptions will show that. At the same time, each organization has done their best to retain the status quo --- to do what they have been doing in the past. This; however, is unacceptable.

Columbia Gas of Pennsylvania and the Commission must change – to be what they claim to be and do what they claim to do.

It is unusual for a pro se complainant to get this far in a public utility rate case. Rate case participants generally know one another, know the protocols of legal procedure, and know a way seek a credible conclusion. I, on the other hand, had little or no knowledge of the participants, except some individuals representing Columbia Gas, protocols, or the actual process of setting rates.

The legal/regulatory framework of public utility management, operations, and accounting has many similarities as the Government contracting with the private sector.

My background in Government contracting, internal controls, asset management, and corporate governance has served me well in taking a fresh look at rate making in this \$98,000,000 annual increase in rates.

The Federal Government as well as contractors in a competitive arrangement is to seek the best value. The first words from the Federal Acquisition Regulations https://www.acquisition.gov/far/part-1#FAR_Subpart_1_1

1.102 Statement of guiding principles for the Federal Acquisition System.

*(a) The vision for the Federal Acquisition System is to deliver on a timely basis the **best value product or service to the customer**, while maintaining the public's trust and fulfilling public policy objectives. Participants in the acquisition process should work together as a **team** and should be empowered to make decisions within their area of responsibility.*

*(c) The Acquisition Team consists of **all participants in Government acquisition** including not only representatives of the technical, supply, and procurement communities but also the **customers** they serve, **and the contractors** who provide the products and services.*

1.102-2 Performance standards.

*d) Fulfill public policy objectives. The System must support the attainment of public policy goals adopted by the Congress and the President. In attaining these goals, and in its overall operations, **the process shall ensure the efficient use of public resources**.*

I believe the Guiding Principles of the Federal Acquisition to a very large extent mirrors the intent of the workings of public utilities and public utility commissions.

I have been invited multiple times to work with the Federal Government, my opinion counted, and operations were improved. Not so much so with the Pennsylvania Public Utility Commission, and certainly not with Columbia Gas.

My first experience with Columbia Gas and the Commission did concern the abandonment of my customer's service line, but that was only the beginning of observing the weaknesses of these organizations.

As justification for abandoning my customer's service line, Columbia pointed to PUC regulation § 59.36. Abandonment of inactive service lines --

<https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/052/chapter59/s59.36.html&d=reduce> and their Plumbers Guide.

	<p>§ 59.36 only applies to “service lines” which is defined in PA Title 66 https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=66&div=0&chpt=1&sctn=2&subsectn=0 <i>"Service line." The pipe and appurtenances of the gas utility, ... "Customer's service line." The pipe and appurtenances owned by the customer</i></p> <p>So by Pennsylvania law, a “service line” is not a “customer’s service line”. So those terms should be used correctly by those subject to the Pennsylvania Public Utility Code ... which includes the Commission and Columbia Gas of Pennsylvania. When we see the professionals of the Commission, Columbia, or others use terms inconsistent with Pennsylvania (1984 by Act 22) that means the writer is ignorant, does poor staff work, or is being intentionally deceptive – all not good and there is no good excuse. When § 59.36. <i>Abandonment of inactive service lines</i> was written the term service line was used correctly. For example, there is no such item as a “customer-owned portion of the service line” as we see on Page 65 of the Recommended Decision.</p> <p>When Columbia required me to replace my customer’s service line – I appealed up through Columbia’s and NiSource management to no avail. I took Columbia to the Local Magistrate Court – Columbia’s attorney claimed my claim for damages was under the exclusive jurisdiction of the Commission. I know that was not correct because the Commission does not have the authority to award damages to individuals. The Magistrate Judge ruled in favor of Columbia. The same thing happened in the Pittsburgh Common Pleas Court. I then filed a Formal Complaint with the Commission on May 8, 2017, not for damages but for a series of improper actions of Columbia Gas that were counter to requirements.</p> <p>The first hearing with Judge Hoyer – the first thing he explains is that he / Commission does not have the jurisdiction to award damages to individuals.</p>
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	<p>How can one of the most ethical companies in the world² withhold the use of my property, assume ownership of my property, and disposition that property by abandonment and misrepresent the jurisdiction of the Public Utility Commission before two courts?</p> <p>I learned about discovery – but Columbia did not want to participate in discovery. I would ask questions and mostly Columbia would object. I would motion to the judge to compel Columbia to answer – the Judge would rule in favor of Columbia. Finally, a hearing occurred before the Judge on February 4, 2019. By that time, I found a lot more independently what Columbia was doing.</p> <p>Judge essentially during discovery and during the hearing suppressed evidence. His final recommendation was to dismiss the complaint for lack of evidence. I submitted exceptions to his recommended decision. So, my complaint from May 2017 until now, the Commission has not dispositioned my formal complaint. This is over four years and over five years since I first contacted Columbia Gas of Pennsylvania for gas service. What happened to my Pennsylvania Constitutional right to have <i>§ 11 Courts to be open ... All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by <u>due course of law</u>, and right and justice administered without sale, denial or delay.</i></p> <p>So far, the administration of justice in Pennsylvania has failed me and the people of Pennsylvania.</p> <p>I determined early on the scheme to abandon customer's service lines was not about safety or other justifiable reasons, it was about <u>padding the rate base</u>. Claim a</p>
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² <https://www.nisource.com/news/article/nisource-named-a-world's-most-ethical-company-by-the-ethisphere-institute-for-sixth-consecutive-year-20170313#:~:text=MERRILLVILLE%2C%20Ind.%20%2C%20March%202013,World's%20Most%20Ethical%20Company%20%2C%20AE.>

customer's service line – serve the same purpose as a service line, claim jurisdiction over customer's service line as a portion of the service line. Claim a customer's service line had no "*reasonable prospect of future use*". This would prompt the destruction service line to the home and financial write-off. Then when the owner wanted to restore service, the utility would require a new customer's service line and a new service line. This scheme would add about \$13,000 to the rate base on this one service line replacement.

The cost to me was mostly not in replacement cost but delays in rental income of about \$1,600 per month.

I viewed this as public utility corruption. Abandoning and replacing suitable for use assets is work that is not necessary – thus is an unallowable cost that should be recognized in a rate case. Unnecessary cost is an unreasonable cost and is an unallowable cost for recovery purposes. If this scheme and similar schemes would have been investigated, audited and the appropriate accounting adjustments and enforcement actions made, Columbia the gas distribution would have probably been reduced.

The Commission, in its order to investigate existing rates, wanted schemes like this to be uncovered and dealt with, but the judge and Columbia did not want to go there.

On July 8, 2020, I decided I would provide sworn public testimony with exhibits at the Public Input Hearing of Columbia's Rate Case R-2020-3018835 before Administrative Law Judge Katrina L. Dunderdale. <https://www.puc.pa.gov/docket/R-2020-3018835>

Here, Columbia's outside attorney tried to prevent and disrupt my testimony. My testimony was cut short. Columbia later object to my testimony – a hearing was held outside of my presence. On August 13, 2020, Judge Dunderdale issued her **THIRD INTERIM ORDER -- Denying Objections of Columbia Gas of Pennsylvania, Inc. to Portions of Public Input Testimony of Richard C. Culbertson.**

<https://www.puc.pa.gov/pcdocs/1673258.docx>

Her Conclusions in part: *OCA and CAAP correctly noted **Columbia Gas’ behavior at the public input hearing and in the filing of a long list of specific objections to testimony provided by a member of the public will create, whether by design or unintentionally, and has created, a chilling effect on participation by other witnesses at future public input hearings.** ...*

Lastly, it must be noted that OCA’s and CAAP’s stated concerns are valid as those concern related to Columbia Gas’ stance at the public input hearing. Columbia Gas took a strong position with a witness at a public input hearing before the presiding officer even started the opening statement or mentioned swearing in Mr. Culbertson as a witness. A member of public, whether familiar or unfamiliar with testifying publicly, might have been cowed or considered the exchange to be confrontational and combative.

On December 4, 2020. Judge Dunderdale rendered her recommended Decision. Columbia proposed an increase of approximately \$100.4 million per year, but Judge Dunderdale recommended no increase. That was not acceptable to the Commission and eventually, the Commission approved about sixty percent of that.³

In 2021 Columbia went back to the well, asking for an approximately \$98.3 million rate increase. I received a letter and a phone call from the Pennsylvania Office of Consumer Advocate encouraging me to become a participant. Again the stakes were high for ratepayers.

I had, however, a lot of demands on my time – Properties in California and Pennsylvania that needed my hands-on attention; an ASTM E53 Asset Management Standard on Conformance needed to be written and vetted: and some new and updated

³ <https://www.puc.pa.gov/pcdocs/1693872.pdf>

“We support the staff recommendation before us today to reduce Columbia’s annual revenue increase from \$100,437,420 to \$63,548,905, thereby resulting in savings to challenged ratepayers.”

	<p>ISO 55000 Asset Management standards that required numerous international ZOOM meetings to update and improve these international standards.</p> <p>My real property involvement would impact my income. My reduced participation in writing and vetting standards could have negative impacts on the U.S. and world economy. There needs to be greater emphasis on intangibles, internal controls, and conformance testing. Covid 19 failures were greatly caused by poor asset management, lack of internal controls, and poor conformance testing. It was certainly in the public interest to remain involved in the writing and vetting of asset management standards.</p> <p>Getting involved in this rate case would produce no income – hiring an attorney to represent me would be grossly unaffordable. The only possible upside would be if I could prove Columbia’s rates and charges were not just and reasonable – it would be for the public good and be in the public interest that I participate.</p> <p>Having unjust and unreasonable rates and charges pay a heavy toll on the Pennsylvania economy and many customers. Individuals having been abused by high unjust and unreasonable rates and having to rely on public relief is demoralizing.</p> <p>There is a lack of public knowledge about the workings of the Commission and Natural gas distribution companies. Most believe they cannot adequately get in front of all those lawyers in a public input hearing on rate increases. The first public input hearing regarding rates was with Columbia in Washington County, I was the only one who testified. The second was at a Peoples hearing where there were between 6-8 of us and the last in 2020 for Columbia, I was one of two. Most who come to testify come with feelings that rates will have a negative impact – I learned I needed to come with documented facts.</p> <p>On this rate case Pennsylvania Public Utility Commission: R-2021-3024296, I learned Judge Hoyer was going to be the presiding officer. I knew at that time I probably would not be treated well.</p>
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On June 11, I submitted a motion to the Commission -- Culbertson Filing Letter and COS RCC 210611 SRC **Confirmation Number 2181386**. In part: "*I, Richard C Culbertson (pro se) make a motion for the Pennsylvania Public Utilities Commission to replace Judge Hoyer with another administrative law judge that will appear to be more within the Canon for Judges in Pennsylvania.*"

The Public's Expectation and Pennsylvania's Requirements for Judges
PA Title 207 Chapter 33. Subchapter A. CANONS

Canon

1. *A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.*

2. *A judge shall perform the duties of judicial office impartially, competently, and diligently."*

The Commission never acted on my motion and Judge Hoyer violated Pennsylvania law. Title 66 § 319. Code of ethics.

*(a) General rule.--Each commissioner and each administrative law judge shall conform to the following code of ethics for the Public Utility Commission. A commissioner and an **administrative law judge must:***

(1) Avoid impropriety and the appearance of impropriety in all activities.

(2) Perform all duties impartially and diligently.

*(7) **Disqualify himself from proceedings in which his impartiality might be reasonably questioned.**"*

*(c) **Removal of judge for violation.**--Any administrative law judge who violates the provisions of subsection (a) **shall be removed from office** in the manner provided by the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act."*

Again as stated on page 62 of the Recommended Decision "Columbia's filing

	<p><i>has been subject to an extensive and detailed investigation by eight other active parties in this proceeding.” This is not true – thus I take exception. The judge did not obey the orders of the Commission. The Recommended Decision should be deemed unacceptable, null and void.</i></p>
<p>2 Pages 1- through 67</p>	<p>The Commission should have disqualified Judge Hoyer based upon my motion to remove Judge Hoyer and Judge Hoyer should have disqualified himself from proceedings in which his impartiality was reasonably questioned.</p> <p>Judge Hoyer must be removed from office for violating Title 66 § 319. Code of ethics. Those proceedings must begin.</p> <p>The Judge’s recommended decision is a form of bad fruit from the poison tree. It Judge’s recommended decision is simply illegal and must be deemed as such.</p> <p>PA Title 207 Chapter 33. Subchapter A. CANONS Canon</p> <ol style="list-style-type: none"> 1. A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. 2. A judge shall perform the duties of judicial office impartially, competently, and diligently.” <p>Having had a previous bad experience with Judge Hoyer, I was reasonably certain issues brought before Judge Hoyer in this rate case would not be judge impartially. The complete record shows that to be correct.</p>
<p>3 Pages: i, 1, 5, 7, 17, 18, 19, 20, 21,</p>	<p>The big lie or the magic words? – “is in the public interest”</p> <p>“Public interest” is used 71 times in the Recommended Decision, e.g., Page 22</p> <p>“Columbia asserts that the Joint Petitioners’ [black box] agreement that such treatment will continue is <u>in the public interest</u> and should be approved.”</p> <p>Things can be what you say they are – until proven not. Many items claimed to be in the</p>

22, 23, 24, 25, 27, 28, 30, 31, 35, 36, 39, 40, 41, 43, 44, 45, 46, 47, 50, 51, 52, 53, 54, 55, 56, 57, 58, 62, 63, 64, 66,	<p>public interest are clearly not. Not being in compliance with laws, regulations, standards, and contracts is not in the public interest.</p> <p>Obeying the law may not be convenient but is necessary and in the public interest. The public requires due diligence on the part of government decision makers.</p> <p>There is a recipe and formula for just and reasonable rates, initially this was provided in the Natural Gas Act and the U.S. Supreme Court’s FEDERAL POWER COMMISSION et al. v. HOPE NATURAL GAS CO. CITY OF CLEVELAND v. SAME.</p> <p><i>“the statute is not concerned with abstract theories of ratemaking. But its very foundation is the ‘public interest’, and the public interest is a texture of multiple strands. It includes more than contemporary investors and contemporary consumers. The needs to be served are not restricted to immediacy, and <u>social as well as economic costs</u> must be counted.”</i></p> <p>It was in the public interest to ascertain if cost were actual legitimate cost prior to determining what are just and reasonable rates. Illegitimate costs by definition are not just and reasonable. It is also not in the public interest to not ascertain if costs are just and reasonable of which the Commission and the joint petitioners did not do.</p> <p>In the Hope decision the Supreme Court did not deal with cost – because <i>“The Commission established an interstate rate base of \$33,712,526 which, it found, represented the ‘actual legitimate cost’.</i> The presumption was that cost was actual legitimate cost. This into the case with the Columbia Rate Case.</p> <p>Natural Gas Act Title 15 §717e. Ascertainment of cost of property (a) Cost of property</p> <p><i>The Commission may <u>investigate and ascertain</u> the <u>actual legitimate cost</u> of the property of every natural-gas company, the depreciation therein, and, when found necessary for rate-making purposes, other facts which bear on the determination of such cost or depreciation and the fair value of such property.</i></p>
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Title §717c. Rates and charges

(a) Just and reasonable rates and charges

All rates and charges made, demanded, or received by any natural-gas company for or in connection with the transportation or sale of natural gas subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges, **shall be just and reasonable**, and any such rate or charge ***that is not just and reasonable is declared to be unlawful***.

This long-standing Federal law does not permit a “black box settlement” (Page 66). This results in the taking of money from customers by throwing out the rule books and prognosticating if all the work had been done what would be the final rates and charges.

The Natural Gas Act was passed by a duly elected Congress and signed by the duly elected President of the United States – an agreement between those who do not want to do the hard work does not override established law to determine if all rates and charges are lawful based upon actual legitimate cost.

This rate case needed to play out based upon the law, facts, and behavior of Columbia Gas and the Commission.

In sports betting, point spread does not determine if a game is played or not and does not enter in the official historical record for players and teams. That is similar to what the joint petitioners have agreed to do. A prognostication of actual legitimate cost is reliable for rate-making.

If attempted and agreed to by the teams and players, this would be determined to be counterfeit and thus illegal and so it is with this rate cases.

Black box settlements are illegal.

Page 63. “Under the Settlement, with only a few select exceptions, the

settlement revenue [rates] requirement is a “black box” amount. Under a “black box” settlement, parties do not specifically identify revenues, expenses [charges] and return that are allowed or disallowed. “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.”

The law determines what is in the public interest – and **all** rates and charges **shall** be just and reasonable.

These are promises to ratepayers, it is not reasonable and just, and not in the public interest to not obey the law or the rights of ratepayers to pay something above actual legitimate costs.

The recipe to obtain actual legitimate cost has been established over the years in various laws.

There is little confidence that the participants possess the knowledge or skillsets to ascertain what costs are actual legitimate costs.

Not using the right recipe or process to reach just and reasonable costs and rates results in substandard or unlawful outcomes.

For Columbia Gas, and the Commission, what are some of those required processes to provide some assurance of reported cost?

It is in the public interest that Columbia and the Commission obey the law, regulations, and standards:

- *Title 15 U.S. Code § 78m - Periodical and other reports*
<https://www.law.cornell.edu/uscode/text/15/78m> *that is the Securities and Exchange Act of 1934 it protects investors and rate payers. This includes many concepts and requirements: generally accepted accounting principle reasonable assurance, internal controls, management’s authorizations to acquire and*

dispose assets, internal and external audits, and unlawful actions of management.

- Generally accepted accounting practices
- Generally accepted auditing practices
- The Pennsylvania Constitution requires

<https://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/00/00.008..HTM>

ARTICLE VIII TAXATION AND FINANCE § 10. Audit. The **financial affairs of any entity** funded or **financially aided** by the Commonwealth, and all departments, boards, **commissions**, agencies, instrumentalities, authorities, and institutions of the Commonwealth, **shall be subject to audits made following generally accepted auditing standards. (Apr. 23, 1968, P.L.App.7, Prop. No.4)**

It is in the public interest that the Commission start recognizing and following established requirements in their approach to supervising public utilities – it is not in the public interest to ignore requirements of the recipe to achieve just and reasonable rates such as:

- The PA Constitution ARTICLE VIII TAXATION AND FINANCE § 10. Audit. If the Commission had **annual audits** of their operations as the Constitution requires, multiple material weaknesses would have been recognized and corrected.
- The GAO Yellow Book -- Audits
- PA Management Directive Management -- Performance of Audit Responsibilities 325.3 Amended (2011) which applies to the Commission
https://www.oa.pa.gov/Policies/md/Documents/325_3.pdf
 - Complicated accounting questions must be investigated, audited and the right approach ascertained by professional auditors and accountants. This is permitted under Title 66 § 516. Audits of certain utilities. (c) Use of independent auditing firms...
 - The audits that the Commission performs are substandard and are not legitimate audits because they are not performed in accordance

	<p>with Generally Accepted Government Standards (GAGAS).</p> <ul style="list-style-type: none"> ○ Management Directive of the Governor’s Office -- Standards for <u>Internal Controls</u> in Commonwealth Agencies 325.12 Amended (2018) and use of the GAO Green Book – Internal Controls https://www.oa.pa.gov/Policies/md/Documents/325_12.pdf ○ 2 CFR 200 – Uniform Administrative Requirements, <u>Cost Principles</u>, and Audit Requirements for [those who receive] Federal Awards This regulation applies to the Commission as part of the Federal Government’s grants to Pennsylvania. In addition, the Federal Government provides grants to the Commission of about \$5 million per year. <p>The use of the phrase “is in the public interest” in the Administrative Law Judge’s Recommended decision is meant to be deceptive and to appease customers and the Commission for failing to produce what was ordered by the Commission.</p> <p><i><u>“1. That ... to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Columbia Gas of Pennsylvania, Inc.’s proposed...</u></i></p> <p><i><u>4. That this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc.’s existing rates, rules, and regulations.”</u></i></p> <p>From the Supreme Court’s Hope decision “Public interest is a texture of multiple strands – those are strands that should be considered.” Unfortunately for me and the people, those material strands did not get into the record because of Columbia’s. and the Judge’s actions. The complete record shows that.</p> <p>It is in the public interest that the Administrative Law Judge obey the orders of the Commission. (It is noted, an administrative law judge must not, on his own, investigate anything. Investigations require ex parte communications of which prohibited under Title 66 § 319. Code of ethics.) The Judge’s Recommended decision should have concluded with something like “I have (done the following work:) and based upon that work I have determined that Columbia’s proposed rates, rules and regulations are/</p>
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are not lawful, just, and reasonable...” There would be something similar with the **existing rates, rules, and regulations.**

The term “existing” is not included in the Administrative Law Judge’s 67-page document. He simply did not follow the order or intent of the Commission.

This is a glaring omission.

Why would that be?

In my Formal Complaint, (pages 15-18) I presented what NiSource, Columbia’s parent, was representing to investors -- <https://investors.nisource.com/company-information/default.aspx>

From this, I created a table from the Parent’s data -- normalizing the rate base per customer of the NiSource gas utilities.

	~ No. of Customers (In 000)	Miles of Pipe	Calculated Miles of pipe per customer	Miles of Bare Steel and Cast Iron	Rate Base (\$ 000,000)	Calculated Rate Base Per Customer \$	
NIPSCO	840	17500	.020	23*	1700	*2024	
COH	1500	20200	.013	2000	3200	2133	
CKY	137	2600	.019	2600	327	2387	
CVA	274	5300	.019	140**	850	3102	
CMD	34	660	.018	50	149	4382	
SUB TOL	2785				6226	2236	Ave
CPA	433	7700	.018	1200	2400	** 5545	
	3548				8626		

Doing the math -- The rate base per customer is 2.7 times more in Pennsylvania than Indiana, 2.6 for Ohio and 2.3 times for Kentucky. If CPA had been operating

	<p>as efficiently as NIPSCO (Indiana), CPA's rate base could be ~\$1,524,593,000 less.</p> <p>Page 17 of my formal complaint I state: <i>"It is in the public interest to find out why the rate base and rates are so much higher in Pennsylvania than in NIPSCO (Indiana), Ohio, and Kentucky and this is what I am requesting from the Commission."</i></p> <p>Do the petitioners, those they represent, and the Administrative Law Judge believe it is in the public interest to have Columbia's rate base per customer be closer to 3 or more times greater than sister companies in Indiana and Ohio? It certainly appears so.</p>
	<p><i>"This one table of substantial evidence to not raise rates outweighs Columbia's 10 volume submission of why the rate should be increased."</i></p>
	<p>When this table was presented in my Set Five, Questions 1 and 2 – Columbia refused to answer – even though it was their opportunity to provide as their burden of proof to show their existing rates were just and reasonable.</p> <p>-- Question 1 requested updated data of the table as the date is not current.</p> <p>--Question 2: <i>"How can the rate base per customer of Columbia Gas of Pennsylvania (CPA) as opposed to neighboring companies be about 2.7 times that of Indiana and 2.6 times that of Ohio be reasonable?"</i></p> <p><i>Please consider "2 CFR § 200.404 - Reasonable costs.</i></p> <p><i>A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost consideration must be given to:</i></p> <p><i>(a) Whether the cost is of a type generally recognized as ordinary and necessary ... or the proper and efficient performance ...</i></p> <p><i>(c) Market prices for comparable goods or services for the geographic area."</i></p> <p>For the Commission – if this rate case results in further rate increases – please do</p>

	not represent to the public the rate increase “is in the public interest” – as it is not!
3 Page 69	<p>11. Complainant Richard C. Culbertson has failed to provide substantial and legally credible evidence to support his claims regarding Columbia’s rates and service and has therefore failed to prove his claims by a preponderance of the evidence.</p> <p>Let’s look at the facts: https://www.puc.pa.gov/docket/R-2021-3024296/#docket-documents</p> <p>Interrogatories Set I Regarding Columbia’s adopted Internal Control Framework – First Interim Order -- 1. That the Motion to Compel filed by Richard C. Culbertson dated June 11, 2021, is granted, in part, and denied in part.</p> <ul style="list-style-type: none"> • 2. Columbia Gas of Pennsylvania, Inc. shall serve answers to Set 1, Question No. 1 subparts a and b only within seven days of the date of this order. • 3. Columbia Gas of Pennsylvania, Inc.’s objections to Set 1, Question No. 1 subpart c, subpart d, subpart e, subpart f, and subpart g are sustained and the motion to compel answers to the same is hereby denied. • The first two questions pertained to the internal control framework of which the Parent NiSource claimed they used in their SEC 10-K representation to investors – <i>“Our management, including our chief executive officer and chief financial officer, are responsible for establishing and maintaining internal control ... Our management has adopted the 2013 framework set forth in the Committee of Sponsoring Organizations [COSO] of the Treadway Commission report, Internal Control - Integrated Framework...”</i> <ul style="list-style-type: none"> ○ <i>If the reader is not familiar with basics of corporate governance, please read the Executive Summary https://www.coso.org/documents/990025p-executive-summary-final-may20.pdf</i> ○ <i>The GAO Green Book is based on the COSO framework and has three major requirements to achieve objectives .</i> <ul style="list-style-type: none"> ▪ Effective and efficient operations ▪ Reliable reporting -- financial and non-financial

- Compliance with laws, regulations, standards, contracts, orders...
 - Audits are based on the segments of internal controls e.g., audits of financial reporting
- Eventually, Columbia said they operate to the COSO.
- Question c. *Please provide NiSource and CPA applicable policies, procedures, requirements, required training material, and the like that are intended to implement this internal control integrated framework.*

In performance audits, management systems standard ISO 9000 Quality, and conformance assessments, the auditor will take the approach to the organization – “*say what you do – do what you say*” The company said they operate to the COSO Standard but when they were asked to substantiate their claim – they refused. That would have provided substantial evidence one way or another that Columbia appears to do what they say.

Apparently, Columbia and Judge Hoyer did not want to have that substantial evidence in the record. Judge Hoyer and Columbia repeated this process throughout discovery. The record shows –

These interrogatories were requesting material information for the Commission, ratepayers, and investors as any reasonable investigation or audit would do.

Someone said in a movie once – “you cannot handle the truth” and so it appeared in this rate case.

SECOND INTERIM ORDER IS ORDERED:

1. That the Motion to Compel filed by Richard C. Culbertson on June 17, 2021, is denied in its entirety.

2. Columbia Gas of Pennsylvania, Inc.'s objections to Richard C. Culbertson's Set II, Question 1 subparts a through p are sustained.

THIRD INTERIM ORDER:

1. That the Motion to Compel filed by Richard C. Culbertson on July 6, 2021, is denied in its entirety because it was untimely filed.

FOURTH INTERIM ORDERED

IT IS ORDERED:

1. That the following formal complaints are hereby consolidated at Docket No. for evidentiary hearings on August 3-5, 2021, and disposition: the Office of Consumer Advocate at Docket No. C- R-2021-3024296 2021-3025078, the Office of Small Business Advocate filed on April 15, 2021, Columbia Industrial Intervenors at Docket No. C-2021-3025600, the Pennsylvania State University at Docket No. C-2021-3025775, Richard C. Culbertson at Docket No. C-2021-3026054, and Ronald Lamb at Docket No. C-2021-3027217.

If my formal complaint is consolidated into R-2021-3024296, how can it be treated individually in the disposition and final Recommended Decision? My individual Docket no longer exists.

Settlements in PUC rate cases are supposed to be approved by all of the participants, not a portion.

FIFTH INTERIM ORDER

IT IS ORDERED:

1. That the Motion to Compel answers to Set V., Questions 3-5, 9, 11-15, 17-24, 26, and 29-50, filed by Richard C. Culbertson on Sunday, July 18, 2021, and served on

Columbia Gas of Pennsylvania, Inc. on July 19, 2021, is denied in its entirety because it was untimely filed.

Note: Culbertson as a pro se complainant is entitled to *Liberal Construction. Title 52 Chapter 1§ 1001.3. Liberal construction.*

(a) This subpart shall be liberally construed to secure the just, speedy and inexpensive determination of every action, proceeding or issue presented to which it is applicable. The Authority or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties.

(b) The singular includes the plural, and the plural, the singular. Words used in the masculine gender include the feminine and neuter. Words used in the past or present tense include the future.

(c) The Authority or presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.

(d) These liberal construction provisions apply with particularity in proceedings involving pro se litigants.

SIXTH INTERIM ORDER (July 28, 2021)

REQUIRING RESPONSES TO THE MOTION OF COLUMBIA GAS OF PENNSYLVANIA, INC. FOR A PROTECTIVE ORDER TO BE FILED AND SERVED BY [3:30 p.m.] JULY 30, 2021

Note the timeline -- and See 52 Pa.Code § 5.365. This PUC reference is favorable to utilities and unfavorable to complainants. In a rate case – particularly true where the utility has not had third-party audits that provide assurance of the financial assertions and operational claims.

A blanket protective order in my opinion is inappropriate – Columbia is a public utility that is a monopoly, publicly traded, supervised by a public utility commission wanting protection from public disclosure of behavior –including probing questions regarding

operations and the accelerated rates and charges. Very few things should be off the able to explore and protected from public scrutiny. Those who are paying the bills have a right to know.

As a first-time pro se, in a rate case, Culbertson should not have taken the lead in pushing back on Columbia's motion, particularly on the limited time to respond.

It appears this motion was calculated to protect Columbia from Culbertson's interrogatories and public scrutiny, and the ALJ provided that protection.

SEVENTH INTERIM ORDER DENYING CULBERTSONS MOTIONS FOR RECONSIDERATION OF THE FIRST INTERIM ORDER AND SECOND INTERIM ORDER.DOC

EIGHTH INTERIM ORDER ADDRESSING COMPLAINANT RICHARD C. CULBERTSON'S FIFTH MOTION TO COMPEL DISCOVERY

1. *"That the Motion to Compel answers by the Commission's Bureau of Investigation and Enforcement to Set I, Interrogatories 1-35, filed by Richard C. Culbertson on Saturday, July 24, 2021, and served on the Commission's Bureau of Investigation and Enforcement on July 26, 2021, is denied in its entirety because it was untimely filed."*

Since 2017, the initial Culbertson formal complaint, Commission's Bureau of Investigation and Enforcement should have been aware of multiple unlawful / not compliant actions of Columbia Gas and subsequent public testimony of those same issues. It seemed to Culbertson, this Bureau was not doing what it is supposed to be doing – little or no known investigating and enforcement. After three public testimonies regarding identified wrongdoings ... the Bureau never seemed to have an interest.

My formal complaint was 60 pages with many issues to investigate and enforce ...

Finally, I, decided that the Bureau was not part of the solution but part of the problem. So, I sent 35 questions to the participating investigator. She objected ... time limitations. Here we have a public servant refusing to answer questions pertaining to public accountability of a segment of the Commission and another segment of the Commission provides legal cover.

Again impartiality is a major concern.

NINTH INTERIM ORDER (Thursday, August 26, 2021) REQUIRING ANY ANSWERS TO COLUMBIA GAS OF PENNSYLVANIA INC.'S MOTION TO STRIKE BE FILED BY [Monday] AUGUST 30, 2021

On August 26, 2021, Columbia Gas of Pennsylvania, Inc., filed a Motion to Strike pages 34-42 of Mr. Culbertson's Main Brief.

TENTH INTERIM ORDER

GRANTING COLUMBIA GAS OF PENNSYLVANIA INC.'S MOTION TO STRIKE 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.

ELEVENTH INTERIM ORDER SETTING DEADLINE FOR FILING OF OBJECTIONS TO SETTLEMENT

On September 7, 2021, a Joint Petition for Settlement was filed.

Two parties, Richard C. Culbertson and Ronald Lamb, did not join in the Settlement.

IT IS ORDERED:

1. That any self-represented complainant may file written objections to or comments regarding the joint petition for settlement. 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.

The Administrative Law Judge indicated this was a settlement but deliberately omitted this was a “black box settlement”.

After my failed attempts to have material information entered into the record of this rate case, commenting on a settlement on rates was not a priority – I was deliberately excluded from settlement talks and not privy to the discussion. There was no reference to a black box settlement.

I have reviewed various examples and references to black box settlements on the internet. None used the definition provided in the settlement agreed to by the petitioners.

“Under the Settlement, with only a few select exceptions, 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. “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.”

The words black box and "identify specific revenues and/or expenses that are allowed or disallowed", from a Google internet search(~ 50 billion web pages) there is only one document identified of all the documents that have that quote.

<http://www.puc.state.pa.us/pcdocs/1226419.docx> Docket Nos. R-2012-2321748 Columbia Gas of Pennsylvania Inc. Recommended decision Before Mark A. Hoyer and Jeffery A. Watson Administrative Law Judges.

That means the definition used in the settlement in 2012 and used in this recommended decision is not the generally accepted definition of a black box settlement.

That also means the represented definition of a “black box settlement” in the settlement of the petitioners, in this rate case, and this recommended decision is misrepresented.

In that the definition of a black box settlement is misrepresented in this recommended decision --- this recommended decision should be deemed to be not credible and be voided.

From the 2012 recommended decision “Columbia explains that under the Settlement, with only a few select exceptions further identified below, the settlement revenue requirement is a “black box” amount. According to Columbia, under a “black box” settlement, parties do not specifically identify revenues and expenses that are allowed or disallowed. Columbia indicates it 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.”

Black box settlements are not permitted under Pennsylvania Public Utility Law Title 66. Just and reasonable cost is not imaginary or prognosticated cost.

The Commission needs to take note of the U.S. Sentencing Commission’s CHAPTER EIGHT - SENTENCING OF ORGANIZATIONS. This Document applies to state governments as well as corporations and includes strong warnings to avoid.

"Organization" means "a person other than an individual." 18 U.S.C. § 18. The term includes corporations, partnerships, associations, joint-stock companies, unions, trusts, pension funds, unincorporated organizations, governments, and political subdivisions thereof, and non-profit organizations.

(J) An individual was **"willfully ignorant of the offense"** if the individual did not **investigate** the possible occurrence of unlawful conduct despite knowledge of circumstances that would lead a reasonable person to investigate whether unlawful

	<p><i>conduct had occurred.</i></p> <p><i>Obstruction of Justice -- If the organization willfully obstructed or impeded, attempted to obstruct or impede, or aided, abetted, or encouraged <u>obstruction of justice</u> during the <u>investigation, prosecution, or sentencing</u> of the instant offense, or, with knowledge thereof, <u>failed to take reasonable steps</u> to prevent such obstruction or impedance or attempted obstruction or impedance, add 3 points.</i></p> <p><i>(E) An individual "condoned" an offense if the individual knew of the offense and did not take reasonable steps to prevent or terminate the offense."</i></p> <p>Unallowable cost is unallowable cost and rates must not be contaminated with unallowable cost. The Commission has a duty to not allow unallowable costs in rates.</p> <p><i>2 CFR 200.400 Policy guide. ... "the accounting practices of the non-Federal entity must be consistent with these cost principles ..."</i></p> <p><i>§ 200.401 Application.</i></p> <p><i>(a) General. These principles must be used in determining the allowable costs of work performed ... under Federal grants. ...</i></p> <p>A black box settlement must not be used in an attempt to violate the requirements of Federal grants.</p> <p>The proposed \$98,000,000 annual rate increase deserves more due process and due diligence than what was given in this rate case.</p>
<p>4 Page 5</p>	<p>"The Joint Petitioners recognize that the proposed Settlement does not bind Formal Complainants <u>that do not choose</u> to join the Settlement."</p>

	<p>I take exception to the statement and all parties to this rate case know it is not true. I was never invited to participate in this black box settlement.</p> <p>The nature or text of this settlement was never disclosed to me until after the settlement was reached.</p> <p>I had been invited, I would have vigorously opposed it. But stating I chose not to “join” is not true. Despicable!</p>
<p>6 Page 62</p>	<p><i>“<u>The primary issue underlying Mr. Culbertson’s Complaint in this proceeding</u> is his belief that Columbia improperly disconnected an inactive service line at 1608 McFarland Road, Pittsburgh, Pennsylvania, and subsequently required Mr. Culbertson to replace the customer-owned portion of the service line before restoring service.”</i></p> <p>That is a false narrative – my complaint against Columbia Gas Inc. that was filed in May 2017, which still has not been dispositioned is not and was not the primary issue in this rate case proceeding.</p> <p>This is an old trick some use to win arguments – create a false narrative, then argue against the false narrative. The Culbertson issues in this rate case are provided in my 60-page Formal Complaint. In my formal complaint, there is no mention of my property at 1608 McFarland Road.</p> <p>What can be considered in the rate case was explained during the prior Columbia Gas rate case on August 13, 2020, with Judge Dunderdale’s THIRD INTERIM ORDER -- Denying Objections of Columbia Gas of Pennsylvania, Inc. to Portions of Public Input Testimony of Richard C. Culbertson. https://www.puc.pa.gov/pcdocs/1673258.docx</p> <p>My formal complaint of 2017 is on its own path.</p> <p>This rate for me is all about the orders of the Commission</p>

	<p><i>1. That an investigation on Commission motion be, and hereby is, instituted to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Columbia Gas of Pennsylvania, Inc. 's <u>proposed...</u></i></p> <p><i>4. That this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Columbia Gas of Pennsylvania, Inc. 's <u>existing</u> rates, rules, and regulations</i></p> <p><i>Unfortunately for the ~433,000 customers of Columbia Gas may not get the investigations that were promised.</i></p>
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There are multiple additional exceptions I could argue.

I believe the customers of Columbia Gas of Pennsylvania are in trouble. This winter, there will be much higher gas bills than they ever expected. The proposed increase from this rate case would be high but not as high as the increase of natural gas that will be delivered. Cheap natural gas is over. Now, we will have high distribution costs as well as natural gas prices. Our economy, Commonwealth, communities, and customers have been harmed by the unallowable accelerated pipeline replacement cost and other unreasonable costs.

The Pennsylvania Public Utility Commission is also in trouble. There is a crisis of trust, leadership, competence, and culture. That is a bitter pill to swallow. The weaknesses must be recognized and fixed. The wrongs pointed out in this rate case must also be fixed. The administrative law judges must not be allowed to ignore the Commission's orders, as Judge Hoyer has. Rate cases are not to be the convenience of the participants and the Utility but for justice for the ratepayer.

Paying attention to the requirements of the internal control framework and asset management standards will be critical. Outside eyes and ideas will be necessary.

The tone at the top will be so important to make the Commission move in a new direction. I am hoping for the Commission to have a better understanding and rededication to their mission to protect and serve the public.

My participation exceptions were written based upon my knowledge and experience as an asset management expert, were done in good faith to help for the cause of serving the public.

From this, I know we all have much work to do, and to make us accountable to improve our service to the people of Pennsylvania.

Sincerely,

Richard C. Culbertson, pro se
1430 Bower Hill Road
Pittsburgh, PA 15243
609-410-0108