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July 27, 2022

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: Pennsylvania Public Utility Commission Bureau of Investigation and  
Enforcement v. Columbia Gas of Pennsylvania, Inc.  
Docket No. M-2022-3012079**

Dear Secretary Chiavetta:

Enclosed for filing in the above referenced matter, please find Respondent's Columbia Gas of Pennsylvania, Inc., Comments Regarding Settlement Agreement.

Copies have been served per the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions regarding this filing, please do not hesitate to call me at (724) 416-6355.

Very truly yours,

Theodore J. Gallagher

Enclosures

Cc: Certificate of Service (w/enc.)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement,	:	
Complainant,	:	
	:	
v.	:	Docket No. M-2022-3012079
	:	
Columbia Gas of Pennsylvania, Inc.,	:	
Respondent	:	

**COLUMBIA GAS OF PENNSYLVANIA, INC.’s**  
**COMMENTS REGARDING SETTLEMENT AGREEMENT**

Columbia Gas of Pennsylvania, Inc. (“Columbia Gas” or “the Company”), by and through its counsel, hereby respectfully submits its Comments regarding the proposed Settlement in the captioned proceeding. Columbia is a party to the Settlement along with the Commission’s Bureau of Investigation and Enforcement (“I&E”).

On June 16, 2022, the Commission entered an Opinion and Order in this matter directing that the Joint Petition for Approval of Settlement (including Appendices) and the Statements in Support thereof, be deposited with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* and that interested parties may file comments regarding the proposed Settlement within 25 days such publication. The Joint Petition for Approval of Settlement (including Appendices) and the Statements in Support were published in the *Pennsylvania Bulletin* on July 2, 2022.

Columbia submits these comments to respond to comments filed on July 18, 2022 by Richard C. Culbertson.

## **Richard C. Culbertson Comments**

1. In a letter dated July 17, 2022, and docketed on July 18, 2022, Richard C. Culbertson submitted comments regarding the Settlement. In his comments, Mr. Culberston touches upon several themes and concludes with several related recommendations. Columbia will address those themes and recommendations below. As a preliminary matter, Columbia notes that Mr. Culbertson's comments fail to address the fact that the Statements in Support submitted by both Columbia and the Commission's Bureau of Investigation and Enforcement ("I&E") in this case supported the approval of the proposed Settlement under the Commission's Policy Statement regarding Factors and Standards for Evaluating Litigated and Settled Proceedings, 52 Pa. Code § 69.1201 ("Policy Statement"). None of the purported matters that Mr. Culbertson has raised in his comments undermine the support provided by Columbia and I&E for approval of the proposed Settlement under those factors.

2. The first theme that Mr. Culbertson pursues in his comments is that an independent, third-party investigation is needed. (Culbertson Comments at pp. 1, 5, 16; Culberston Recommendation #5). In making that recommendation, Mr. Culbertson fails cite to any Commission-established process for the initiation of such an investigation. Even if there were such a process, Mr. Culbertson has failed to demonstrate any shortcomings in the thorough investigation that I&E conducted in this matter. In fact, Mr. Culbertson himself noted that "There has been some good work on the part of the Commission's Bureau of Investigation and Enforcement." (Culbertson Comments at p. 1).

3. A second theme that Mr. Culbertson raises is that the Commission should take the overpressurization incident on September 13, 2018 involving Columbia's former affiliate Columbia Gas of Massachusetts into consideration in its assessment of the proposed Settlement. (Culbertson Comments at pp. 1, 7 – 9) Mr. Culbertson posits that this Commission should assess whether NiSource has fulfilled its obligations related to the resolution of the Massachusetts incident and in particular whether the incident at 100 Park Lane in Washington, Pennsylvania violated the deferred prosecution agreement between NiSource Inc. and the United States Attorney for the District of Massachusetts that ensued from the Massachusetts incident. (Culbertson Comments at p. 16, Culbertson Recommendation ## 3, 4). The Commission's Policy Statement has no provision for assessing a proposed settlement based upon the acts or omissions of an out-of-state affiliate of a Pennsylvania utility or whether such an affiliate has fulfilled obligations related to those acts or omissions. Moreover, the incident at 100 Park Lane in Washington, Pennsylvania occurred on July 31, 2019 (I&E Statement in Support at p. 4), which predates the February 2020 effective date of the deferred prosecution agreement between NiSource and the United States Attorney.

4. Mr. Culbertson maintains that the settlement does not address why it was necessary for Columbia to uprate its mains in the vicinity of 100 Park Lane from .5 psig to 40 psig, and recommends that the Commission prohibit the uprating of pipelines. (Culbertson Comments at pp. 2, 3, 16; Culbertson Recommendation #8). He concludes that "the negative risks are greater than the potential benefits" (Culbertson Comments at p. 16), without any explanation or analysis to support that conclusion. Had I&E's Gas Safety personnel found any issue with the concept of uprating pressure, one would think that they would have admonished Columbia for doing so in Washington, Pennsylvania during July of 2019. The fact that I&E

raised no such issue should be an indication that the Gas Safety Division found no violation related to Columbia's decision about *whether* to upgrade its system. Rather, the proposed Settlement properly addresses the *manner* in which Columbia conducted that upgrade.

In many base rate cases since 2009, Columbia has explained the operational and safety benefits associated with replacing its low pressure systems. For example, Columbia's 2021 rate case (Case No. R-2021- 3024296) included the following explanation by witness Ray Brumley in Columbia Statement No. 7 at page 10, lines 4 – 17:

Columbia is replacing the segmented, 19th and early 20th century low-pressure designs of its first generation system with a more integrated, 21st century system design. This integrated, higher pressure system (up to a maximum of 99 pounds operating pressure, though we will typically operate at 60 pounds per square inch gauge (“PSIG”)) will enable Columbia to substantially reduce the current need for district pressure regulator stations throughout its system, resulting in a safer, easier, and more reliable system to operate. Instead, each residence will have a small domestic-sized regulator installed just upstream of the meter to reduce the pressure before it enters the house. Also, a distribution system operating at these higher pressures will enable Columbia to install new safety devices in areas to be upgraded. As part of the upgrade, Columbia is installing excess flow valves (“EFVs”) on nearly all services connected to the replaced mains. The EFVs will shut off gas to a residence or business in the event of a large pressure differential, which is indicative of a major gas leak or a service damaged by excavation.

No party to any Columbia rate case since 2009 has challenged this testimony.

5. Mr. Culbertson argues that Columbia has taken control of customer service lines, and that they assumed ownership of the customer's service line. (Culbertson Comments at pp. 2-3). He recommends that the Company be prohibited from replacing customer's service lines and from placing meters under or in front of windows. (Culbertson Comments at p. 16; Culbertson Recommendation #9). These arguments have nothing to do with the facts and circumstances regarding the incident that occurred at 100 Park Lane. Rather, Mr. Culbertson is attempting to resurrect issues that he raised, but which the Commission denied, in Formal Complaint Docket

No. F-2017-2605787. Mr. Culbertson should not be afforded the ability to relitigate these matters in the case at hand.

6. Mr. Culbertson maintains that the Commission should consider matters that may be relevant to a base rate proceeding, but are not relevant to the Commission's assessment of a proposed settlement agreement. For example, Mr. Culbertson suggests that Columbia is engaging in "unnecessary work" and takes issue with the growth of the Company's rate base. (Culbertson Comments at pp. 5, 15, 16; Culbertson Recommendation #10). These matters touch upon the reasonableness and prudence of Columbia's expenditures, which are currently under scrutiny in Columbia's pending base rate case at Docket No. R-2022-3031211. Mr. Culbertson is a party to that case, and has the opportunity to explore those issues there.

7. Mr. Culbertson maintains that the Commission should consider the gravity of the incident at issue in this case by taking account of the extent of damage that occurred from the explosion at 100 Park Lane and the extent of injuries that could have occurred. (Culbertson Comments at pp. 6, 16; Culbertson Recommendation #1). In doing so, Mr. Culbertson ignores that the proposed Settlement takes those very factors into account. Columbia refers the Commission's attention to page 9 of I&E's Statement in Support, where I&E discusses the second factor under the Policy Statement, and concludes that "The terms and conditions of the Settlement acknowledge that serious consequences occurred and are designed to further enhance the safety of Columbia Gas's service and facilities." Moreover, as noted on page 12 of I&E's Statement in Support, under the fifth Policy Statement factor the proposed Settlement takes into account that "a natural gas explosion occurred that resulted in at least four non-life-threatening

injuries, demolished the entire residential structure at 100 Park Lane, and cause severe damage to neighboring homes in the area.”

8. In his comments, Mr. Culbertson urges the Commission to require that corrective actions be taken to address alleged infirmities in Columbia’s mapping and recordkeeping. (Culbertson Comments at pp. 10 – 12, 16; Culbertson Recommendation #2). Again, he has ignored the fact that the proposed Settlement takes those very matters into account. Columbia refers the Commission to the corrective actions that Columbia has agreed to undertake, which are listed in detail in Paragraph 49 b of the Joint Petition for Approval of Settlement. (Joint Petition for Approval of Settlement at pp. 14 – 16).

9. Mr. Culbertson recommends that the Commission “Assign a PUC overseer to supervise and validate that Columbia is making its commitments on corrective actions as well as to assure that Columbia’s expenditures are necessary.” (Culbertson Comments at p. 16; Culbertson Recommendation #6. With respect to overseeing corrective actions, that is a function that I&E fulfills, and there is no need for the Commission otherwise to assign an overseer. With respect to assuring that Columbia’s expenditures are necessary, the reasonableness and prudence of the Company’s expenditures are matters for consideration in base rate proceedings.

10. Mr. Culbertson recommends that the Commission oversee Columbia’s restitution to “Those harmed by the explosion”. (Culbertson Comments at p. 16; Culbertson Recommendation #7). Personal injury claims are not within the Commission’s jurisdiction. Rather, questions of negligence and liability for damages belong before the civil courts. See

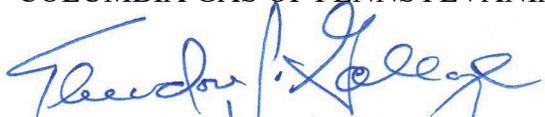
*DeFrancesco v. Western Pa. Water Co.*, 453 A.2d 595 (1982); *Elkin v. Bell Tel. Co.*, 420 A.2d 371, 375 (1980); *Gary H. G. Utter v. Metropolitan Edison Company*, PUC Docket No. C-2018-3005969 (Order entered Oct. 8, 2020), 2020 Pa. PUC Lexis 507, 24.

11. Finally, Mr. Culbertson recommends that “Applicable findings and lessons learned should also apply to other Pennsylvania Gas utilities.” (Culbertson Comments at p. 16; Culbertson Recommendation #11). Columbia submits that it would be inappropriate to apply findings in this proceeding to non-participating gas utilities.

**WHEREFORE**, Columbia Gas of Pennsylvania, Inc. respectfully requests that the Pennsylvania Public Utility Commission adopt an order approving the terms of the Settlement Agreement as being in the public interest.

Respectfully submitted  
COLUMBIA GAS OF PENNSYLVANIA, INC.

By:



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Date: July 27, 2022

## 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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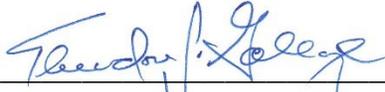
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Dated: July 27, 2022

  
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