

Via Electronic Mail Only

The Honorable Christopher P. Pell,
Deputy Chief Administrative Law
Judge
Pennsylvania Public Utility
Commission
801 Market Street Philadelphia PA
19107

The Honorable John Coogan
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor Harrisburg,
PA 17120

Re: Pennsylvania Public Utility Commission
v.
Columbia Gas of Pennsylvania, Inc.
Docket No. R-2022-3031211

Dear Judge Pell and Judge Coogan:

Enclosed please find my signed Main Brief.

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

Respectfully submitted,



Richard C Culbertson
1430 Bower Hill Road
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August 23, 2022
eFile

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :
:
v. : Docket No. R-2022-3031211
:
Columbia Gas of Pennsylvania, Inc. :

I hereby certify that I have this day served a true copy of my Main Brief 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 23rd day of August 2022.

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Docket No. R-2022-3031211
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Statement of the Case:

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-2022-3031211
Office of Small Business Advocate	:	C-2022-3031632
Office of Consumer Advocate	:	C-2022-3031767
Pennsylvania State University	:	C-2022-3031957
Columbia Industrial Intervenors	:	C-2022-3032178
Jose A. Serrano	:	C-2022-3031821
Constance Wile	:	C-2022-3031749
Richard C. Culbertson	:	C-2022-3032203
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc	:	

I. Introduction

The Order of the Commission has not been fulfilled in this rate. Customers of Columbia have been harmed by the rate case process of the Commission. The Commission must change its process to comply with Pennsylvania Public Utility law.

This Main Brief will focus on four issues:

1 Has Columbia Gas satisfied its burdens of proof, as required, that rates charges are just and reasonable?

2 Has Columbia provided a reasonable substantiation as to why its current rates as reported in the Commission’s Rate Comparison Report publishes on April 15, 2022 and available at <https://www.puc.pa.gov/filing-resources/reports/rate-comparison-reports/>

are substantially higher than their peer gas utilities?

3 The primary underlying cause for Columbia replacing pipes per the Commission Order in 2022 was “Columbia stated that the requested increase in its base rates is necessary due to

Columbia’s ongoing investment to enhance its distribution system through the replacement of pipe and related appurtenances that are reaching the end of their useful lives and Columbia’s operation and maintenance expenditures on compliance activities and operations safety enhancements.” But in 2021 The Commission’s Order provided ”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.” Columbia no longer has an accelerated pipeline replacement program?

4 The basis of rates stems from actual legitimate cost. *“18 CFR 201 ---E. All amounts included in the accounts prescribed herein for gas plant and operating expenses shall be just and reasonable and any payments or accruals by the utility in excess of just and reasonable charges shall be included in account 426.5, Other Deductions.”* What level of assurance can participants in this rate case provide to customers that Columbia’s capitalized cost, rate base, rates and charges are free of illegitimate or disallowed unreasonable cost. How do the Cost Principles identified in 2 CFR 200 and PA Management Directives 305.03 Amended and 325.09 apply or don’t apply.

II. Statement Of The Case:

The Commission must fulfil and comply its Order provided on April 14, 2022.

A. Legal Standards And Burden Of Proof

- 1.** These multiple legal standards apply to the requirements to achieve just and reasonable rates and are considered conclusion of law that is relevant to this rate case. “Legal standards mean any law, rule, ordinance, code, administrative resolution, judicial order, order, decree, municipal decree, ruling sentence, the decision by any government authority or any binding agreement with any government authority.” An order of precedence applies.⁶ To list some that have significance:

Line	Document
1.	Constitution of United States of America Amendment XIV ... nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”
2.	Constitution of United States ARTICLE VI. Clause 2. This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby; anything in the Constitution or Laws of any State to the Contrary notwithstanding.
3.	15 U.S.C. COMMERCE AND TRADE § 717c(a) - Rates and charges JUST AND REASONABLE RATES AND CHARGES All rates and charges made, demanded, 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 [by federal and state regulators] 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.
4.	<p>15 U.S.C. COMMERCE AND TRADE §717e. Ascertainment of cost of property</p> <p>(a) Cost of property The Commission may investigate and ascertain the actual legitimate cost 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.</p> <p>(b) Inventory of property; statements of costs Every natural-gas company upon request shall file with the Commission an inventory of all or any part of its property and a statement of the original cost thereof, and shall keep the Commission informed regarding the cost of all additions, betterments, extensions, and new construction.</p> <p>(June 21, 1938, ch. 556, §6, 52 Stat. 824.)</p>

⁶ <https://www.lawinsider.com/dictionary/legal-standards>

5.	<p>15 U.S.C. COMMERCE AND TRADE §717f. Construction, extension, or abandonment of facilities</p> <p>(b) Abandonment of facilities or services; approval of Commission</p> <p>No natural-gas company shall abandon all or any portion of its facilities subject to the jurisdiction of the Commission, or any service rendered by means of such facilities, without the permission and approval of the Commission first had and obtained, after due hearing, and a finding by the Commission that the available supply of natural gas is depleted to the extent that the continuance of service is unwarranted, or that the present or future public convenience or necessity permit such abandonment.</p>
6.	<p>15 U.S.C. § 78m - Periodical and other reports. [publicly traded corporations]</p> <p>“(2)(A) make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer;”</p> <p>2)(B) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that—</p> <p>(i) transactions are executed in accordance with management’s general or specific authorization;</p> <p>(ii) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles (GAAP) or any other criteria applicable to such statements, and (II) to maintain accountability for assets;</p> <p>(iii) access to assets is permitted only in accordance with management’s general or specific authorization; and</p> <p>(iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences;</p> <p>(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection except as provided in paragraph (5) of this subsection.</p> <p>(5) No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2)”</p> <p>respect to any differences;</p> <p>(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection except as provided in paragraph (5) of this subsection.</p> <p>(5) “No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2).</p>
7.	<p>49 U.S.C.A. § § 60101—60503</p> <p>49 U.S.C.A. § 60102. Purpose and general authority</p> <p>(a) PURPOSE AND MINIMUM SAFETY STANDARDS. —</p> <p>(1) PURPOSE. —The purpose of this chapter is to provide adequate protection against risks to life and property posed by pipeline transportation and pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.</p> <p>(2) MINIMUM. —The Secretary shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The standards—</p>

	(A) apply to owners and operators of pipeline facilities; [Not consumers or private property owners]
8.	2 CFR 200 - UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS (In total)
9.	2 CFR § 200.6 Auditee. Auditee means any non-Federal entity that expends Federal awards which must be audited under Subpart F— Audit Requirements of this part.
10.	<p>2 CFR § 200.7 - Auditor. Auditor means an auditor who is a public accountant or a Federal, state or local government audit organization, which meets the general standards specified in generally accepted government auditing standards (GAGAS) [GAO Yellow Book].</p> <p>(b) Financial statements. The auditor must determine whether the financial statements of the auditee are presented fairly in all material respects in accordance with generally accepted accounting principles. The auditor must also determine whether the schedule of expenditures of Federal awards is stated fairly in all material respects in relation to the auditee’s financial statements as a whole.</p> <p>(c) Internal control. (1) The compliance supplement provides guidance on internal controls over Federal programs based upon the guidance in Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States [GAO Green Book] and the Internal Control—Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).</p> <p>(c)(4) ...However, the auditor must report a significant deficiency or material weakness in accordance with §200.516 Audit findings, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.</p> <p><u>(d) Compliance. (4) The compliance testing must include tests of transactions and such other auditing procedures necessary to provide the auditor sufficient appropriate audit evidence to support an opinion on compliance.[1]</u></p>
11.	2 CFR § 200.50 Generally Accepted Government Auditing Standards (GAGAS). GAGAS means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.
12.	2 CFR § 200.61 Internal controls. Internal controls means a process, implemented by a non-Federal entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories: (a) Effectiveness and efficiency of operations; (b) Reliability of reporting for internal and external use; and (c) Compliance with applicable laws and regulations.

13.	2 CFR § 200.303 Internal controls. The non-Federal entity must: (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
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14.	2 CFR § 200.318 General procurement standards. (d) The non-Federal entity’s procedures must avoid acquisition of unnecessary or duplicative items.
15.	2 CFR § 200.403 Factors affecting allowability of costs. Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards: (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles. [Cost maybe reasonable but necessary, e.g., acceleration of pipeline replacements may be reasonable but not necessary.]
16.	<p>2 CFR § 200 Subpart E—Cost Principles § 200.404 Reasonable costs.</p> <p>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. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be given to:</p> <p>(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.</p> <p>(c) <u>Market prices for comparable goods or services for the geographic area.</u></p> <p>[Unallowable costs are unallowable regardless of how presented... as direct or indirect cost.]</p>
17.	2 CFR 200.434 Contributions and donations. (a) Costs of contributions and donations, including cash, property, and services, from the non-Federal entity to other entities, are unallowable.
18.	2 CFR § 200.504 Frequency of audits. Except for the provisions for biennial audits provided in paragraphs (a) and (b) of this section, audits required by this part must be performed annually. Any biennial audit must cover both years within the biennial period.

19.	<p>2 CFR § 200.514 Scope of audit. (a) General. The audit must be conducted in accordance with GAGAS. [attestations and performance audits] The audit must cover the entire operations of the auditee, or, at the option of the auditee, such audit must include a series of audits that cover departments, agencies, and other organizational units that expended or otherwise administered Federal awards during such audit period, provided that each such audit must encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and other organizational unit, which must be considered to be a non-Federal entity. The financial statements and schedule of expenditures of Federal awards must be for the same audit period.</p> <p>(d) Compliance. (1) In addition to the requirements of GAGAS, the auditor must determine whether the auditee has complied with Federal statutes, regulations, and the terms and conditions of Federal awards that may have a direct and material effect on each of its major programs.</p>
20.	<p>17 CFR Commodity and Securities Exchanges § 240.10A-3 - Listing standards relating to audit committees.</p> <p>(b)Required standards –</p> <p>(2) ...The audit committee of each listed issuer, in its capacity as a committee of the board of directors, must be directly responsible for the appointment, compensation, retention and oversight of the work of any registered public accounting firm engaged (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the listed issuer, and each such registered public accounting firm must report directly to the audit committee.,</p> <p>(3) Complaints. Each audit committee must establish procedures for:</p> <p>(i) The receipt, retention, and treatment of complaints received by the listed issuer regarding accounting, internal accounting controls, or auditing matters; ...</p>
21.	<p>17 CFR § 270.8b-2 (g)Material. The term “material”, when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent investor [customer] ought reasonably to be informed before buying or selling any security of the particular company [or being satisfied with rates].</p>
22.	<p>18 CFR Part 201 - UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT</p> <p>2.E. General Instructions</p> <p>All amounts included in the accounts prescribed herein for gas plant and operating expenses shall be just and reasonable and any payments or accruals by the utility in excess of just and reasonable charges shall be included in account 426.5, Other Deductions.</p> <p>Income Chart of Accounts</p> <p>B. OTHER INCOME DEDUCTIONS</p>

	<ul style="list-style-type: none"> • 426.1 Donations. This account shall include all payments or donations for charitable, social or community welfare purposes. • 426.3 Penalties. This account shall include payments by the company for penalties or fines for violation of any regulatory statutes by the company or its officials. • 426.5 Other deductions. <p>380 Services. A. This account shall include the cost installed of service pipes and accessories leading to the customers' premises.</p> <p>B. A complete service begins with the connection on the main and extends to but does not include the connection with the customer's meter. A stub service extends from the main to the property line, or the curb stop. [Plumbing beyond the stub service is not part of service line.]</p>
	<p>C. Services which have been used but have become inactive shall be retired from utility plant in service immediately if there is no prospect for reuse, and, in any event, shall be retired by the end of the second year following that during which the service became inactive unless reused in the interim. [Retirement of an asset is an accounting requirement not necessarily an operational event—a retirement does not trigger an abandonment. In GAAP FASB Concept 6 Assets 25. “Assets are probable future economic benefits obtained or controlled by a particular entity as a result of past transactions or events.” There is a difference between less likely than not and “no prospect for reuse”.]</p>
23.	<p>AICPA AU Section 312 Audit Risk and Materiality in Conducting an Audit 09 The term errors refers to unintentional misstatements of amounts or disclosures in financial statements. The term fraud refers to an intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage.</p>
24.	<p>49 CFR § 192.3 Definitions. As used in this part: -Abandoned means permanently removed from service. [This is for utility property and does not apply to customer's service lines.]</p> <p>-Distribution line means a pipeline other than a gathering or transmission line.</p> <p>-Low-pressure distribution system means a distribution system in which the gas pressure in the main is substantially the same as the pressure provided to the customer.</p> <p>-Operator means a person who engages in the transportation of gas.</p> <p>-Pipe means any pipe or tubing used in the transportation of gas, including pipe-type holders. [A customer's service line is not used in transportation.]</p> <p>-Pipeline means all parts of those physical facilities through which gas moves in transportation, including pipe, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies.</p> <p>-Service line means a distribution line that transports gas from a common source of supply to an individual customer...</p>

	<p>Service line means a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter.</p> <p>[Note this is confusing and poorly written. Pennsylvania made clarifications based upon conditions in Pennsylvania. As a service line is always utility property – only. There is not such property as a customer’s portion of a service line.]</p>
25.	<p>49 CFR § 192.365 Service lines: Location of valves. (a)Relation to regulator or meter. Each service-line valve must be installed upstream of the regulator or, if there is no regulator, upstream of the meter.</p> <p>(b)Outside valves. Each service line must have a shut-off valve in a readily accessible location that, if feasible, is outside of the building.</p> <p>(c)Underground valves. Each underground service-line valve must be located in a covered durable curb box or standpipe that allows ready operation of the valve and is supported independently of the service lines. [The Commission prohibits meters to be beneath or in front of windows in regulation.]</p>
26.	<p>49 CFR § 192.513 Test requirements for plastic pipelines. (a) Each segment of a plastic pipeline must be tested in accordance with this section.</p> <p>(b) The test procedure must insure discovery of all potentially hazardous leaks in the segment being tested.</p> <p>(c) The test pressure must be at least 150 percent of the maximum operating pressure or 50 p.s.i. (345 kPa) gage, whichever is greater. (Published August 1970.)</p> <p>[Columbia requires 90 psig.]</p>
27.	<p>49 CFR § 192.727 Abandonment or deactivation of facilities. (a) Each operator shall conduct abandonment or deactivation of pipelines in accordance with the requirements of this section. (c) Except for service lines, each inactive pipeline that is not being maintained under this part must be disconnected from all sources and supplies of gas;</p> <p>(d) Whenever service to a customer is discontinued, one of the following must be complied with:</p> <p>(1) The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator.</p> <p>(2) A mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly.</p> <p>(3) The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed. [This occurs with the removal of the meter.] [Abandonment of a service line is not required.]</p>
28.	<p>49 CFR Part 192, Subpart N - Qualification of Pipeline Personnel</p> <p>§ 192.801 Scope. (a) This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.</p>

	<p>(b) For the purpose of this subpart, a covered task is an activity, identified by the operator, that: (1) Is performed on a pipeline facility; [A customer’s service line is not a pipeline facility 49 CFR § 192.3, utility operators have pipeline facilities.]</p> <p>(2) Is an operations or maintenance task;</p> <p>(3) Is performed as a requirement of this part; and</p> <p>(4) Affects the operation or integrity of the pipeline.</p>
29.	<p>PART 199—DRUG AND ALCOHOL TESTING</p> <p>§199.1 Scope.</p> <p>This part requires operators of pipeline facilities subject to part 192, 193, or 195 of this chapter to test covered employees for the presence of prohibited drugs and alcohol.</p>
30.	<p>Supreme Court 320 U.S. 591 (1944) 64 S.Ct. 281, 88 L.Ed. 333, FEDERAL POWER COMMISSION et al. v. HOPE NATURAL GAS CO. Paragraph 4 -- The Commission established an interstate rate base of \$33,712,526 which, it found, represented the 'actual legitimate cost' of the company's interstate property...</p> <p>Paragraph 54 “[T]he Commission's rate ORDERS must be founded on due consideration of all the elements of the public interest which the production and distribution of natural gas involve just because it is natural gas. These elements are reflected in the Natural Gas Act if that Act be applied as an entirety. See, for instance, §§ 4(a)(b)(c)(d), 6, and 11, 15 U.S.C. §§ 717c(a)(b)(c)(d), 717e, and 717j, 15 U.S.C.A. §§ 717c(a—d), 717e, 717j. Of course 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 social as well as economic costs must be counted.”</p>
31.	<p>PCAOB Auditing Standard No. <u>5</u></p> <p>An Audit of Internal Control Over Financial Reporting that is Integrated with an Audit of Financial Statements</p> <p>1. This standard establishes requirements and provides direction that applies when an auditor is engaged to perform an audit of management's assessment 1/ of the effectiveness of internal control over financial reporting ("the audit of internal control over financial reporting") that is integrated with an audit of the financial statements.</p> <p>2. Effective internal control over financial reporting provides reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes. 3/ If one or more material weaknesses exist, the company's internal control over financial reporting cannot be considered effective. 4/</p> <p>Footnotes</p>

Commented [RC1]: Clean up

	<p>3. The auditor's objective in an audit of internal control over financial reporting is to express an opinion on the effectiveness of the company's internal control over financial reporting. Because a company's internal control cannot be considered effective if one or more material weaknesses exist, to form a basis for expressing an opinion, the auditor must plan and perform the audit to obtain appropriate evidence that is sufficient to obtain reasonable assurance 5/ about whether material weaknesses exist as of the date specified in management's assessment. A material weakness in internal control over financial reporting may exist even when financial statements are not materially misstated.</p> <p>4. The general standards 6/ are applicable to an audit of internal control over financial reporting. Those standards require technical training and proficiency as an auditor, independence, and the exercise of due professional care, including professional skepticism. This standard establishes the fieldwork and reporting standards applicable to an audit of internal control over financial reporting.</p>
32.	<p>CONSTITUTION of the COMMONWEALTH OF PENNSYLVANIA, Article I - WE DECLARE THAT-- § 1. Inherent rights of mankind. All ...have certain inherent and infeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property ...</p>
33.	<p>CONSTITUTION of the COMMONWEALTH OF PENNSYLVANIA, Article 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 due course of law, and right and justice administered without sale, denial or delay.</p>
34.	<p>Article VI § 3. Oath of office. Senators, Representatives and all judicial, State and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation before a person authorized to administer oaths. "I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity."</p>
35.	<p>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 in accordance with generally accepted auditing standards.</p>
36.	<p>Pennsylvania Management Directive -- Performance of Audit Responsibilities Number: 325.3 Amended. (2011) Applies to Commissions with their audit—financial, attestations and performance. Requires the use of the Federal Generally Accepted Government Auditing Standards (GAGAS) This document is frequently referred to as the GAO Yellow Book. (Apr. 23, 1968, P.L.App.7, Prop. No.4)</p>
37.	<p>Pennsylvania Management Directive -- Applies to Commissions -- Processing Audits of Federal Pass-Through Funds Number: 325.9. Requires the use of 2 CFR 200 PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS</p>

38.	<p>Pennsylvania Management Directive -- Applies to Commissions -- Standards for Internal Controls in Commonwealth Agencies 325.12 Amended (2018) Requires the use of the Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States. This document is referred to as the GAO Green Book</p>
39.	<p>PA Title 18 § 3901. Definitions.</p> <p>"Deprive." (1) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value, or with intent to restore only upon payment of reward or other compensation; or (2) to dispose of the property so as to make it unlikely that the owner will recover it.</p> <p>"Movable property." Property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.</p> <p>"Obtain." (1) To bring about a transfer or purported transfer of legal interest in property, whether to the obtainer or another; or (2) in relation to labor or service, to secure performance thereof.</p> <p>"Property." Anything of value, including real estate, tangible and intangible personal property, contract rights, choses-in-action and other interests in or claims to wealth, ...</p> <p>"Property of another." Includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, ...</p>
40.	<p>PA Title 18 § 3922. Theft by deception.</p> <p>Offense defined. --A person is guilty of theft if he intentionally obtains or withholds property of another by deception. A person deceives if he intentionally: creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; but deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise; prevents another from acquiring information which would affect his judgment of a transaction; or fails to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship.</p>
41.	<p>PA TITLE 66 PUBLIC UTILITIES § 102. Definitions.</p> <p>Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:</p> <p>"Customer's service line." The pipe and appurtenances owned by the customer extending from the service connection of the gas utility to the inlet of the meter serving the customer.</p> <p>"Facilities." All the plant and equipment of a public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with, the business of any public utility.</p>

	<p>"Public utility." (1) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for:</p> <p>(i) Producing, generating, transmitting, distributing, or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation.</p> <p>"Rate base." The value of the whole or any part of the property of a public utility to which is used and useful in the public service. [A customer's service line is not used in public service]</p> <p>"Service line." The pipe and appurtenances of the gas utility which connect any main with either the point of connection of a customer's service line or the meter of the public utility if the utility owns all the pipe and appurtenances between its main and meter.</p> <p>"Tariff." All schedules of rates, all rules, regulations, practices, or contracts involving any rate or rates, including contracts for interchange of service, and, in the case of a common carrier, schedules showing the method of distribution of the facilities of such common carriers.</p>
42.	<p>TITLE 66 PUBLIC UTILITIES § 315. Burden of proof. (a) Reasonableness of rates. - -In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. The commission shall give to the hearing and decision of any such proceeding preference over all other proceedings, and decide the same as speedily as possible.</p>
	<p>(b) Compliance with commission determinations and orders. --In any case involving any alleged violation by a public utility, contract carrier by motor vehicle, or broker of any lawful determination or order of the commission, the burden of proof shall be upon the public utility, contract carrier by motor vehicle, or broker complained against, to show that the determination or order of the commission has been complied with.</p> <p>(c) Adequacy of services and facilities. --In any proceeding upon the motion of the commission, involving the service or facilities of any public utility, the burden of proof to show that the service and facilities involved are adequate, efficient, safe, and reasonable shall be upon the public utility.</p> <p>(d) Justification of accounting entries. --The burden of proof to justify every accounting entry questioned by the commission shall be upon the public utility making, authorizing, or requiring such entry, and the commission may suspend any charge or credit pending submission of such proof by such public utility.</p>
43.	<p>§ 332. Procedures in general.</p> <p>(a) Burden of proof. --Except as may be otherwise provided in section 315 (relating to burden of proof) or other provisions of this part or other relevant statute, the proponent of a rule or order has the burden of proof.</p>

	<p>(b) Admissibility of evidence. --Any oral or documentary evidence may be received, but the commission shall as a matter of policy provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. No sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative and substantial evidence.</p> <p>(c) Submission of evidence. -- Every party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The commission may, by rule, adopt procedures for the submission of all or part of the evidence in written form.</p> <p>(d) Record, briefs and argument. -- The transcript of a public input hearing, the transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision, and shall be available for inspection by the public. Briefing and oral argument shall be held in accordance with rules established by the commission. For the purpose of this section, a public input hearing is a hearing held in the service area at which the ratepayers may offer testimony, written or otherwise, relating to any matter which has a bearing on the proceeding.</p>
44.	<p>Title 66 § 501. General powers.</p> <p>(a) Enforcement of provisions of part --In addition to any powers expressly enumerated in this part, the commission shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this part, and the full intent thereof; and shall have the power to rescind or modify any such regulations or orders. The express enumeration of the powers of the commission in this part shall not exclude any power which the commission would otherwise have under any of the provisions of this part.</p>
	<p>(b) Administrative authority and regulations. --The commission shall have general administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth. The commission may make such regulations, not inconsistent with law, as may be necessary or proper in the exercise of its powers or for the performance of its duties.</p> <p>(c) Compliance. --Every public utility, its officers, agents, and employees, and every other person or corporation subject to the provisions of this part, affected by or subject to any regulations or orders of the commission or of any court, made, issued, or entered under the provisions of this part, shall observe, obey, and comply with such regulations or orders, and the terms and conditions thereof.</p>
45.	§ 516. Audits of certain utilities.

	<p>(a) General rule. --The commission shall provide for audits of any electric, gas, telephone or water utility The audits shall include an examination of management effectiveness and operating efficiency. [Under this section financial audits are assumed to be included.] The commission shall establish procedures for audits of the operations of utilities as provided in this section. ... A summary of the audits mandated by this subsection shall be released to the public, and a complete copy of the audits shall be provided to the Office of Trial Staff and the Office of Consumer Advocate.</p> <p>(c) Use of independent auditing firms. (This would include selection of the firm and payment arrangements.)</p>
46.	<p>§ 523. Performance factor consideration.</p> <p>(a) Considerations. -- The commission shall consider, in addition to all other relevant evidence of record, the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates under this title. On the basis of the commission's consideration of such evidence, it shall give effect to this section by making such adjustments to specific components of the utility's claimed cost of service as it may determine to be proper and appropriate. Any adjustment made under this section shall be made on the basis of specific findings upon evidence of record, which findings shall be set forth explicitly, together with their underlying rationale, in the final order of the commission.</p>
47.	<p>§ 701. Complaints.</p> <p>The commission, or any person, corporation, or municipal corporation having an interest in the subject matter, or any public utility concerned, may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission. Any public utility, or other person, or corporation likewise may complain of any regulation or order of the commission, which the complainant is or has been required by the commission to observe or carry into effect.</p>
48.	<p>§ 1301. Rates to be just and reasonable.</p> <p>(a) Regulation. --Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. Only public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits, shall be subject to regulation and control by the commission as to rates, with the same force, and in like manner, as if such service were rendered by a public utility.</p>
49.	<p>§ 1351. Definitions.</p> <p>"Capitalized cost." Costs permitted to be capitalized pursuant to the Uniform System of Accounts and Generally Accepted Accounting Principles.</p> <p>"Distribution system." A system owned or operated by a utility. The term includes a natural gas distribution company, a city natural gas distribution operation, an electric distribution company, a water utility and a collection system for a wastewater utility.</p>

50.	<p>§ 1359. Projects.</p> <p>(a) Standards. --The commission shall establish standards to ensure that work on utility systems to repair, improve or replace eligible property is performed by qualified employees of either the utility or an independent contractor in a manner that protects system reliability and the safety of the public.</p> <p>(b) Inspection. --Projects for which work to repair, improve or replace eligible property is performed by independent contractors shall be subject to reliability and safety standards and to inspection by utility employees.</p> <p>(c) Cost. --Work on projects to repair, improve or replace eligible property that is not performed by qualified employees or contractors or inspected by the utility's qualified personnel shall not be eligible for recovery of a distribution system improvement charge.</p>
51.	<p>§ 1501. Character of service and facilities.</p> <p>Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. ... The commission shall have sole and exclusive jurisdiction to promulgate rules and regulations for the allocation of natural or artificial gas supply by a public utility.</p>
52.	<p>§ 2205. Duties of natural gas distribution companies.</p> <p>(a) Integrity of distribution system. --</p> <p>(1) Each natural gas distribution company shall maintain the integrity of its distribution system at least in conformity with the standards established by the Federal Department of Transportation and such other <u>standards practiced by the industry</u> in a manner sufficient to provide safe and reliable service to all retail gas customers connected to its system consistent with this title and the commission's orders or regulations.</p>
53.	<p>§ 3309. Liability for damages occasioned by unlawful acts.</p> <p>(a) General rule. --If any person or corporation shall do or cause to be done any act, matter, or thing prohibited or declared to be unlawful by this part, or shall refuse, neglect, or omit to do any act, matter, or thing enjoined or required to be done by this part, such person or corporation shall be liable to the person or corporation injured thereby in the full amount of damages sustained in consequence thereof. The liability of public utilities, contract carriers by motor vehicles, and brokers for negligence, as heretofore established by statute or by common law, shall not be held or construed to be altered or repealed by any of the provisions of this part.</p>
54.	<p>Title 52 Chapter 1§ 1001.3. Liberal construction.</p>

	<p>(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.</p> <p>(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.</p> <p>(d) These liberal construction provisions apply with particularity in proceedings involving pro se litigants.</p>
55.	<p>52 Pa. Code § 5.21</p> <p>FORMAL COMPLAINTS</p> <p>§ 5.21. Formal complaints generally. (a) A person complaining of an act done or omitted to be done by a person subject to the jurisdiction of the Commission, in violation, or claimed violation of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission, may file a formal complaint with the Commission.</p>
56.	<p>52 Pa. Code § 59.13. Complaints.</p> <p>(a) Investigations. Each public utility shall make a <u>full and prompt investigation</u> of complaints made to it or through the Commission by its customers.</p> <p>(b) Records of complaints. Each public utility shall preserve written or recorded service complaints showing the name and address of the complainant, the date and character of the complaint, and the adjustment or disposal made of the complaint. Records required by this chapter shall be kept within this Commonwealth at an office or offices of the utility located in the territory served by it, and shall be open for examination by the Commission or its staff.</p>
57.	<p>§ 59.18. Meter, regulator and service line location.</p> <p>(a) General requirements for meter and regulator location.</p> <p>(6) The meter location must accommodate access for meter reading, inspection, repairs, testing, changing and operation of the gas shut-off valve.</p> <p>(8) Meters and service regulators may not be installed in the following locations:</p> <p>(i) Beneath or in front of windows</p>
58.	<p>§ 59.33. Safety.</p> <p>(a) Responsibility. Each public utility shall at all times use every reasonable effort to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers and others may be subjected to by reason of its equipment and facilities.</p>

	<p>(b) Safety code. The minimum safety standards for all natural gas and hazardous liquid public utilities in this Commonwealth shall be those issued under the pipeline safety laws as found in 49 U.S.C.A. § § 60101—60503 and as implemented at 49 CFR Parts 191—193, 195 and 199, including all subsequent amendments thereto. Future Federal amendments to 49 CFR Parts 191—193, 195 and 199, as amended or modified by the Federal government, shall have the effect of amending or codifying the Commission’s regulations with regard to the minimum safety standards for all natural gas and hazardous liquid public utilities. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes a notice in the Pennsylvania Bulletin stating that the amendment or modification may not take effect.</p> <p>(e) Records. Each public utility shall keep adequate records as required for compliance with the code in subsection (b). The records shall be accessible to the Commission and its staff.</p>
59.	<p>§ 59.36. Abandonment of inactive service lines. A public utility shall have a plan ...</p> <p>(1) Service lines which are not constructed of noncorrosive material or part of a cathodic protection system which have been inactive for 3 months and for which there is no prospect of reuse shall be scheduled for abandonment under 49 CFR 192.727 as of May 1, 1986 and subsequent amendments thereto which have been ratified by the Commission under § 59.33, as soon as practicable but not later than 6 months after it has been determined there is no prospect for reuse.</p> <p>(2) Service lines which have been inactive for 3 months and for which there is a reasonable prospect of future use shall be shut off under 49 CFR 192.727(d) as of May 1, 1986 and subsequent amendments thereto which have been ratified by the Commission under § 59.33. A review of the status of inactive lines shall be made annually, at periods not exceeding 15 months. Lines which no longer qualify for retention shall be abandoned under paragraph (1).</p> <p>Source: The provisions of this § 59.36 amended May 30, 1986, effective May 31, 1986, 16 Pa.B. 1901. Immediately preceding text appears at serial page (20981).</p>
60.	<p>COLUMBIA GAS OF PENNSYLVANIA, INC. Tariff ISSUED: June 25, 2021</p> <p>1.3 Application of Tariff</p> <p>The Tariff provisions apply to any party or parties lawfully receiving gas service from the Company, under the rates set forth therein, and the receipt of gas shall constitute the receiver a customer of the Company as the term is used herein.</p>
61.	<p>1.4 Rules and Regulations</p> <p>The Rules and Regulations, filed as a part of this Tariff, are a part of every contract or agreement for service, whether written, oral or implied, made by the Company, and govern all classes of service where applicable</p>
62.	<p>1.5 Statement of Agents</p> <p>No agent or employee of the Company has authority to make any promise, agreement or representation inconsistent with the provisions of this Tariff.</p>
63.	<p>3.3 Acceptance</p>

	Acceptance of service by the customer shall constitute an agreement to accept service under these Rules and Regulations, as amended from time to time, the Orders or Rules of the Pennsylvania Public Utility Commission, and Laws of the Commonwealth of Pennsylvania, and the Laws of the United States of America.
64.	<p>4.14 Maintenance of Lines</p> <p>All house and service lines (sic) to the curb valve, or to the property or lot line if there is no curb valve, shall be kept and maintained in good condition by the owner of such facilities. When leaky or hazardous conditions of the service (sic) and house lines are found, repairs shall be made promptly by the owner of such facilities.</p> <p>(See the Ownership and Maintenance section of this tariff for further information.)</p>
65.	<p>4.16 Customer's Responsibility</p> <p>Customer assumes all responsibility for property owned by the customer on customer's side of the point of connection, as well as for the installation and appliances used in connection therewith, and will save Company harmless from and against all claims for injury or damage to persons or property occasioned by or in any way resulting from such service or the use thereof on customer's side of the point of connection.</p>
66.	<p>7.1 Point of Delivery</p> <p>The point of delivery of gas to a customer shall be at the outlet side of the curb valve, or the property or lot line if there is no curb valve, at which point title of the gas shall pass to the customer; provided, however, in the territory formerly served under Tariff Gas - Pa. P.U.C. Nos. 6 and 7, the point of delivery shall be the outlet side of the meter at which point title of the gas shall pass to the customer.</p> <p>(See the Description of Territory section of this tariff to identify territory formerly served under Tariff Gas - Pa. P.U.C. No. 6 and Tariff Gas - Pa. P.U.C. No. 7.)</p>
67.	<p>8.1 Service Connections</p> <p>The Company will install the service line from its main to point of delivery, as defined in the Point of Delivery section of this tariff; ...</p>
68.	<p>8.4 Ownership and Maintenance</p> <p>The Company shall own, maintain and renew, <u>when necessary</u>, its main extension and/or service line from its main to the point of delivery, as defined in Rule 7.1.</p>

III. Culbertson Issues

The Commission's Order.

"PENNSYLVANIA PUBLIC UTILITY COMMISSION HARRISBURG, PA 17120 Public Meeting held April 14, 2022 Commissioners Present: Gladys Brown Dutrieuille, Chairman John F. Coleman, Jr., Vice Chairman Ralph V. Yanora Pennsylvania Public Utility Commission v.

Columbia Gas of Pennsylvania, Inc. Docket Number: R-2022-3031211 ORDER BY THE COMMISSION: On March 18, 2022, Columbia Gas of Pennsylvania, Inc. (Columbia), Utility Code 120700, filed Supplement No. 337 to Tariff Gas Pa. P.U.C. No. 9 to become effective May 17, 2022, containing proposed changes in rates, rules, and regulations calculated to produce \$82.2 million in additional annual revenues. Under the proposed increase, the total bill for a residential customer who purchases 70 therms of gas from Columbia per month, would increase from \$123.24 to \$135.67 per month, or by 10.09%. [Columbia has also proposed an increase in the monthly residential customer charge from \$16.75 to \$24.75 or about a 48 percent increase.] The Office of Small Business Advocate filed a formal complaint on March 28, 2022. Various oppositions were also filed.

Columbia stated that the requested increase in its base rates is necessary due to Columbia’s ongoing investment to enhance its distribution system through the replacement of pipe and related appurtenances that are reaching the end of their useful lives [Emphasis added] and Columbia’s operation and maintenance expenditures on compliance activities and operations safety enhancements. [In 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.”¹ [Emphasis added]

Investigation and analysis of this 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 Columbia’s existing rates, rules, and regulations; [Emphasis added]

¹ <https://www.puc.pa.gov/pdocs/1702741.doc> Order in Columbia Gas rate case in 2021. A distinction or change without a difference? Or a change with a difference? Docket Number: R-2021-3024296

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 the proposed Supplement No. 337 to Tariff Gas Pa. P.U.C. No. 9.

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.

5. That the case be assigned to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision.

BY THE COMMISSION,

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: April 14, 2022

ORDER ENTERED: April 14, 2022

What the Commission represented to the public:

PUC to Investigate Proposed Rate Increase by Columbia Gas

Published on 4/14/2022

Filed under: [Gas](#)

HARRISBURG – The Pennsylvania Public Utility Commission (PUC) voted today to [investigate a rate increase request filed by Columbia Gas of Pennsylvania](#) (Columbia), which provides natural gas distribution services to approximately 440,000 residential, commercial, and industrial customers in portions of 26 counties across western and south-central Pennsylvania.

The Commission voted 3-0 to investigate the [request](#), which was filed on March 18, 2022.

The changes proposed by Columbia would produce an overall revenue increase of approximately \$82.2 million per year. Under the proposal, the total monthly bill for a residential customer who purchases 70 therms of gas would increase from \$123.24 to \$135.67 (10.09%). Additionally, Columbia proposes an increase in the monthly residential customer charge from \$16.75 to \$24.75.

For Columbia's commercial customers, the total monthly bill for a small commercial customer using 150 therms of gas would increase from \$205.73 to \$223.51 (8.64%). Rates for a small industrial customer using 1,316 therms of gas would increase from \$1,476.21 to \$1,586.33 per month (7.46%).

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. More information on the [ratemaking process](#) is available on the Commission's website.

A final decision by the Commission on this rate increase request is due by Dec. 17, 2022.

The Commission's Order and representations to the public are of primarily importance in this rate case. Did the Commission represent Columbia's reason for the rate increase properly? Was the increase request driven because of Columbia's accelerated replacement program or the replacement of pipes that had reached the end of their useful lives?

If the replaced items had reached the end of their useful lives, then there is no acceleration.

Columbia's Direct Testimonies² Volume 10 of March 18, 2022. Reference to Columbia's "accelerated" replacement program is mentioned 21 times. But "end of their useful lives" 1.

² <https://www.puc.pa.gov/pdocs/1737838.pdf>

2022, CASE OBJECTIVES

20 Q. Please summarize Columbia's major objectives in this proceeding.

M. Kempic

Statement No. 1

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II. CASE OBJECTIVES

20 Q. Please summarize Columbia's major objectives in this proceeding.

M. Kempic

Statement No. 1

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1 A. Consistent with prior cases, the primary driver for this filing is Columbia's ongoing
2 significant investment to enhance its distribution system through the replacement
3 of pipe and related appurtenances that are **reaching the end of their useful lives** and
4 Columbia's operations and maintenance expenditures on compliance activities and
5 operations safety enhancements. Columbia seeks Commission approval to increase
6 its base rates to recover the revenue requirement associated with the capital
7 Columbia has invested, and will continue to invest, in its facilities as part of its
8 **accelerated pipeline replacement program**, as well as Columbia's
9 operations and maintenance expenditures. 2021 Testimony of Mr. Kempic:

2021 Rate Case

"CASE OBJECTIVES

II. CASE OBJECTIVES

2 Q. Please summarize Columbia's major objectives in this proceeding.

3 A. Consistent with prior cases, the primary driver for this filing is Columbia's ongoing

4 significant investment to enhance its distribution system through the replacement

5 of cast iron, bare steel and first generation pipe and its expenditures on operations
6 safety enhancements. Columbia seeks Commission approval to increase its base
7 rates to recover the revenue requirement associated with the capital Columbia has
8 invested, and will continue to invest, in its facilities as part of its continued
9 accelerated pipeline replacement program, as well as Columbia's operations and
10 maintenance expenditures.”

Mr. Kempic – changed his story to the extent the Commission changed its explanation of the proposed increase.

A knowledgeable asset management, accounting or compliance professional in a government environment would generally have the opinion that accelerated retirements asset is unreasonable and wasteful. The explanation of the Columbia's objectives would raise red flags as it did for Culbertson. The explanation in 2022 appears to try to change and correct the past. However, the first sentence and second sentence are incompatible, and still should raise red flags.

The contents and concerns of the Culbertson Formal Complaint still have not been addressed.

66Pa.C.S. Section 308. Bureaus and offices. 308.2 provides various required functions of the PUC. These include: 7) Insure adequate service quality, efficiency and availability at just and reasonable rates. (8) Conduct financial, management, operational and special audits. (9) Provide consumer information, consumer protection... (11) Take appropriate enforcement actions, including rate proceedings, ... necessary to insure compliance with this title, commission regulations and orders.

This law requires work to be performed to meet various objectives including just and reasonable rates.

These requirement in 66Pa.C.S. Section 308, must be performed in a timely manner, not omitted, but with due care, and not haphazardly. There are no acceptable short cuts – with not doing the required work – then with settlement nullify the requirements. A proclamation that rates

are just and reasonable, does not make those rate just and reasonable. The data provided by the Commission in their Rate Comparison Report³ is self-evident ... Columbia's rates are not just and reasonable.

The actual process of which the Commission uses to arrive at just and reasonable rates is not defined in public command medial documents but should be.

To satisfy to objectives and requirements of just and reasonable rates requires proper order, internal controls and transparency.

For those as to this rate case – the objectives cannot be achieved with the current Commission's and Columbia performance processes.

Decision making required reliable financial and non-financial reporting. The participants have neither.

In well run organizations there is great care that data is current, accurate and complete. That also means organizations use modern information technology including mistake proofs inputs. For important data fields unstructured data is not allowed.

For decision-making the maxim of “garbage in – garbage out” is taken seriously. Good management will not tolerate garbage in and do not want to take make decision based upon garbage out.

That, however, is exactly what is happening in rate cases. The Commission does not fulfill the requirements of financial, performance and special audits. What's left is reliance of unaudited an unreliable submitted information from Columbia.

When periodic audits do not occur, some organizations take financial self-service liberties either by error or intent.

Then those errors become baked into the rate base.

With no financial or performance audits being conducted per the required standard – e.g.,

³ Commission's Rate Comparison Report publishes on April 15, 2022 and available at <https://www.puc.pa.gov/filing-resources/reports/rate-comparison-reports/>

GAO Yellow Book. The results are unreliable decision making – unreliable decision making is unreasonable, thus making rates unreasonable.

Columbia's submitted unaudited financials should be viewed as unreliable and imaginary.

The participants and their experts this rate cases are not impartial auditors as they do not have access and authority of access to Columbia's internal controls – operations, reporting and compliance. So, what ever is reported it is only as good as the information provided them.

Eventually truth is exposed in the form of spending. Columbia spends a lot on infrastructure. But does this spending represent actual legitimate cost? Probably not. Because of accelerated spending.

The question for this participant in this rate case, as currently conducted, is it legitimate? Does it arrive at a just, reasonable and reliable outcome that is in the public interest? Answers to both questions, in this complainant's opinion is -- No! The process for preparation of this rate case is grossly inadequate because of multiple material weaknesses of internal controls.

The Commissions initial order is faulty.

Administrative law judges do not investigate – neither do complainants. There is no path to an actual investigation that may provide assurance that Columbia's proposed, and current rates and charges are just and reasonable.

Columbia is requesting \$82.2 million in additional annual revenues. A high level of care is required to extract that amount of money from customers. If Columbia's business was constructing buildings and the final approval came in the form of an occupancy permit, there would be multiple controls, checks, approvals to provide assurance that the building was constructed as approved and accordance with the contract, building codes and standards.

Most of the checks and quality controls are performed concurrently with the construction. If building were constructed without adequate documented inspections. After the building looks completed, they would not get a building permit because contracts, codes and standards require

documented checks. High value expenditures require due diligence – so far, the due diligence required for the public interest in this rate case has not been provided from the utility nor the Commission.

There are many things wrong with Columbia’s operations and the with this rate case but Culbertson in this Brief focuses on four of the most significant.

1. Has Columbia Gas satisfied its burdens of proof, as required, that rates charges are just and reasonable?

No. The Commission did not perform a financial audit. Columbia had the option with the Commission’s concurrence to enter into an arrangement with a third-party audit firm under Title 66 § 516 Audits of certain utilities, (c). Use of independent auditing firms... but did not.

Providing participants of the rate case with unreliable unaudited financials does not satisfy the burden of proof require by Pennsylvania law.

In good decision-making, decisions are not to be made with unreliable data. To do so would be a ready – fire – aim approach. Or the logical sequence of events – e.g., sweep the floor before mopping the floor. Correct the data before making decisions based upon uncorrected data. Using unreliable data for decision making is a bad a using critical equipment that may include counterfeit parts.

2. Has Columbia provided a reasonable substantiation as to why its current rates as reported in the Commission’s Rate Comparison Report publishes on April 15, 2022 and available at <https://www.puc.pa.gov/filing-resources/reports/rate-comparison-reports/> are substantially higher than peer gas utilities?

No. Columbia provided a substantiation – accelerated replacement of pipe, which retires pipes with remaining useful life. This is a substantiation – but not a reasonable substantiation. Accelerated cost is not reasonable cost – thus unallowable and unrecoverable cost.

3. The primary underlying cause for Columbia replacing pipes per the Commission Order in 2022 was *“Columbia stated that the requested increase in its base rates is necessary due to Columbia’s*

ongoing investment to enhance its distribution system through the replacement of pipe and related appurtenances that are reaching the end of their useful lives and Columbia's operation and maintenance expenditures on compliance activities and operations safety enhancements." But in 2021 The Commission's Order provided "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." Columbia no longer has an accelerated pipeline replacement program?

No. Columbia still has an accelerated pipeline replacement program.

From Mr. Kempic testimony

"Q. Please summarize Columbia's major objectives in this proceeding.

M. Kempic

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A. Consistent with prior cases, the primary driver for this filing is Columbia's ongoing significant investment to enhance its distribution system through the replacement of pipe and related appurtenances that are reaching the end of their useful lives and Columbia's operations and maintenance expenditures on compliance activities and operations safety enhancements. Columbia seeks Commission approval to increase its base rates to recover the revenue requirement associated with the capital Columbia has invested, and will continue to invest, in its facilities as part of its **continued accelerated pipeline replacement program,** as well as Columbia's operations and maintenance expenditures."⁴

On July 8, 2022 at efilng 2424542 in this rate case Culbertson requested from the Commission a special investigation of Columbia Gas.⁵ That motion still is outstanding. In the motion:

*"At the [NiSource] shareholders meeting, as recorded, the new NiSource CEO claims NiSource has "Six priority areas: safety, sustainability, being a great place to work, customer experience, operational excellence, and **meeting our financial commitments.**" Affordability and effective internal controls are not included.*

Priorities NiSource stock provided a total shareholder return of nearly 25% in 2021. This is top tier performance. This top tier performance compares to our peer group average of 15%." ...

"Total capital investments are expected to drive compound annual rate-based growth of 10 to 12% for each of the company's businesses through 2024." The NiSource priorities sustainability and meeting financial commitments are a major threat to rate payers."[Emphasis added]

The way NiSource meets its financial commitments is having an accelerated pipeline replacement program. The only hard priority that is measurable is **meeting our financial commitments.**

⁴ <https://www.puc.pa.gov/pdocs/1737838.pdf>

⁵ <https://www.puc.pa.gov/pdocs/1751236.pdf>

Here Columbia wants it both ways – if an items truly is at the end of its useful life, based upon an objective criteria – that is the acceptable terminology when an item is retired and replaced. This approach is generally acceptable. What is not acceptable is accelerated replacements. The two stated practices incompatible. Columbia’s accelerated cost must continue, otherwise Columbia will not meet its Corporate financial commitments.

Without an adequate investigation, it is unknown the extent of acceleration above normally appropriate replacements. The Averch-Johnson Effect appears to be in place.⁶

4. The basis of rates stems from actual legitimate cost.

“18 CFR 201 --E. All amounts included in the accounts prescribed herein for gas plant and operating expenses shall be just and reasonable and any payments or accruals by the utility in excess of just and reasonable charges shall be included in account 426.5, Other Deductions.”

What level of assurance can participants in this rate case provide to customers that Columbia’s capitalized cost, rate base, rates and charges are free of illegitimate or disallowed unreasonable cost. How do the Cost Principles identified in 2 CFR 200 and PA Management Directives 305.03 Amended and 325.09 apply or don’t apply?

The participants of this rate case cannot provide any assurance that Columbia’s capitalized cost, rate base, rates and charges are free of illegitimate or disallowed unreasonable cost. And they are not intending to. First, they are not qualified to do so. Competent auditors, using standards provide assurance.

The Commission is subject to 2 CFR 200, and PA Management Directives 305.03 Amended and 325.09 but are non-compliant with these applicable requirements. In a proper audit these would be findings and be recognized as a material weakness.

⁶ A Guide to Utility Ratemaking https://www.puc.pa.gov/General/publications_reports/pdf/Ratemaking_Guide2018.pdf Page 166.

Orders of the Commission must still be achieved.

“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 Supplement No. 337 to Tariff Gas – Pa. P.U.C. No. 9.

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.

In summary: No proven internal controls -- No independent audits — no evidence -- no proof or reasonable assurance of just and reasonable rates – no rate increase.

III. Relief Sought

Culbertson respectfully requests that the Commission take the following actions:

- A. Investigate, using proper investigative standards, the contents of the Culbertson complaint.
- B. Rule that part of a rate increase or decrease is provided based on reliable assurances of 'actual legitimate cost' of property owned by Columbia Gas of Pennsylvania. The level of assurance must be provided by competent independent auditors and must comply with the definition provided in 2 CFR § 200.7.

“§ 200.7 Auditor.

Auditor means an auditor who is a public accountant or a Federal, state or local government audit organization, which meets the general standards specified in generally accepted government auditing standards (GAGAS).” [GAO Yellow Book]

- C. Rule that a determination of just and reasonable rates cannot begin until there is reasonable assurance Columbia's financial performance is based upon 'actual legitimate cost'. The data from Columbia and parent company, NiSource, show the rate base – thus rates are not reasonable. The chart on its own is substantial evidence of that fact.

- D. Reconsider and rule in the letter and spirit and limitations of the Hope decision as provided in this Complaint; (FEDERAL POWER COMMISSION et al. v. HOPE NATURAL GAS CO. CITY OF CLEVELAND v.

SAME Decided Jan. 3, 1944, <https://www.law.cornell.edu/supremecourt/text/320/591>, particularly Paragraph 54” [T]he Commission’s rate ORDERS must be founded on due consideration of all the elements of the public interest which the production and distribution of natural gas involve just because it is natural gas. These elements are reflected in the Natural Gas Act if that Act be applied as an entirety. See, for instance, §§ 4(a)(b)(c)(d), 6, and 11, 15 U.S.C. §§ 717c(a)(b)(c)(d), 717e, and 717j, 15 U.S.C.A. §§ 717c(a—d), 717e, 717j. Of course 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 social as well as economic costs must be counted.”

Hope Paragraph 6 ‘No greater injustice to consumers could be done than to allow items [such] as operating expenses and at a later date include them in the rate base, thereby placing multiple charges upon the consumers.’ Id., 44 P.U.R.,N.S., at page 12.

- E. Confirm the primary mission of the Pennsylvania Public Utility Commission and the purpose of this rate case is not to balance the needs of consumers and utilities, but to provide due consideration of all the elements of the public interest including current long-term social and economic needs and costs.
- F. Rule that Columbia Gas of Pennsylvania must use the COSO Integrated Internal Control Framework as asserted in the NiSource 10-K and applicable parts of the GAO Green Book. Also rule that Columbia Gas has or has not complied with this self-assertion by management and that material weaknesses, significant deficiencies, and deficiencies must be disclosed to the Commission and others and be corrected.
- G. Rule the Commission is or is not using applicable parts of the GAO Green Book on Internal Controls as required by Pennsylvania Management Directive of the Governor’s Office -- Standards for Internal Controls in Commonwealth Agencies 325.12 Amended (2018).

- H. Rule that the Commission must use generally accepted Government audits as applicable as well as establishing internal controls . Generally accepted government audits are expressed in the GAO Yellow Book and required for the Commission under Management Directive of the Governor’s Office -- Performance of Audit Responsibilities 325.3 Amended (2011) and Management Directive 325.12 Amended – Standards for Enterprise Risk Management in Commonwealth Agencies(October 1, 2021, which requires the use of the GAO Green Book – Internal Controls.
- I. Rule that the Commission and Columbia Gas are subject to the requirement as applicable to 2 C.F.R. § 200: e.g. § 200.61 Internal controls; § 200.303 Internal controls; § 200.404 Reasonable costs; § 200.110 Effective/applicability date; 200.434 Contributions and donations; § 200.504 Frequency of audits; § 200.514 Scope of audit; § 200.6 Auditee; and other applicable sections of this Federal regulation.
- J. Rule that annual audits must include an assurance statement and identification of and material weaknesses, significant deficiencies and deficiencies, and a corrective action plan with dates of progress – if any.
- K. Rule that Columbia must correct its accounting to the extent that rates and charges are just and reasonable and in compliance with integrated internal controls and independent and competent audits.
- L. Rule that Columbia Gas must satisfy the corrective actions identified by Federal Officials and NiSource Management promises to correct safety deficiencies in records, processes, and facilities because of the disaster with Columbia Gas of Massachusetts and provide the Commission and the parties of this rate case, that items identified by Federal officials have or have not been corrected at Columbia Gas of Pennsylvania’s facilities.
- M. Rule that Columbia must recognize Pennsylvania Utility law Title 66 section 102 regarding basic definitions and concepts such as facilities (owned by a public utility - tangible and

intangible. Private property owners also have tangible and intangible property), service line (always owned by a public utility), customer's service line (never owned by a public utility, Rate Base (property of a public utility which is used and useful in the public service - private property is not used in public service). The Commission nor Columbia has the authority or jurisdiction to change these definitions and must apply them as enacted.

- N. Recognize safety concerns and order corrections that have been observed that provide an undue risk to public safety. These include placing meters in unsafe locations such as under a window so there is no safe access to shut off the gas in an emergency; not installing curb valves on service lines - in an emergency, there may not be a curb valve with an owner's name thereby putting first responders and others at risk in an emergency; not complying with industry standards in service line sizes - thereby insufficient energy is supplied to the home making the service to the home incapable of using the latest and most efficient appliances; installing service lines without quality assurance processes and documented assurance of conformance with requirements.
- O. Order the withdrawal of the Plumbers Guide as it declares untruths and harms property owners and private plumbing contractors. Order that Columbia come clean with individuals who have been harmed and encourage Columbia to provide restitution to those harmed. Columbia has no right to misrepresent its authority.
- P. Deny an increase in the Company's rates that cannot be fully justified by the Company or that is unjust, unreasonable, unduly discriminatory, or otherwise inconsistent with the Public Utility Code, sound rate-making principles, and public policy.
- Q. Determine the justness and reasonableness of the Company's current and proposed rates; and Grant such other relief that the Commission deems necessary.
- R. Columbia Gas of Pennsylvania, Inc. Schedule 108 R-2021-3024296, Updated for Actuals Through December 31, 2021. Page 440 of 602

Line 33 Mains Account number 376.00, Ending Balance \$1,928,081,031

Line 34 Mains - CSL Replacements [Customer's Service Line] Account Number 376.08,

Ending Balance **\$23,515,481**

<https://www.puc.pa.gov/pcdocs/1737837.pdf>

Customer's service lines do not belong on Columbia's fixed assets books. Customer's service lines are always the responsibility of the property owner of which Columbia serves.

See Title 66 § 1510. *Ownership and maintenance of natural and artificial gas service lines. "... A public utility shall not be authorized or required to acquire or assume ownership of any customer's service line. ... Maintenance of service lines shall be the responsibility of the owner of the service line...*

Customer's Service lines are not property of Columbia Gas and are not plant in service and should not be on Columbia's balance sheet.

The Commission must investigate the practice, determine if the practice stopped and enforce the law and require the necessary adjustments to make customer's whole. Columbia has a right to replace customer's service line and charge the cost to donations, but not recoverable in the rate base. Good or bad intentions do not override the law.

IV. CONCLUSION

This rate case must follow the Order of the Commission:

Order 5 is contingent upon the successful investigations including audits of Orders 1. and 4., which have not been followed. The participants of this rate case come with empty hands. The public expects to pay just and reasonable rate as promised in the Press Release of May 6, and related Order.

This Order includes: *"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.” By definition, costs as a result of accelerated pipeline replacement[s] are not “necessary cost”. Not necessary costs are not an allowable cost for rate-making purposes and contrary to Columbia’s tariff.

-2 CFR § 200.318 General procurement standards. (d) The non-Federal entity’s procedures must avoid acquisition of unnecessary or duplicative items.

-Title 66§ 1501. Character of service and facilities.

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public.

- Columbia’s Tariff 8.4 Ownership and Maintenance

The Company shall own, maintain and renew, when necessary, its main extension and/or service line from its main to the point of delivery, as defined in Rule 7.1.

Replacing pipe that has remaining useful economic life and replacing them with a new pipe that has longer economic life is unreasonable. Customers will pay for the unused economic life of the existing pipe and the associated cost of the new pipe. A reasonable homeowner would not do the same with residential property. The pipe must be replaced, when necessary, not when unnecessary.

“18 CFR Part 201 - UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT

2.E. General Instructions

All amounts included in the accounts prescribed herein for gas plant and operating expenses shall be just and reasonable and any payments or accruals by the utility in excess of just and reasonable charges shall be included in account 426.5, Other Deductions.”

A settlement agreement with some rate case participants does not negate the Commission’s Orders 1. and 4. Columbia Gas of Pennsylvania has the burden of proof to show their proposed and existing rates are lawful, just, and reasonable. Columbia has failed to provide that burden of proof. Self-assertions are not proof. Even in audits of the parent for financial reporting that provided an opinion of reasonable assurance is not proof of Columbia’s rates and Charges.

Rates must not be increased until all the work included in the Commission's Orders is satisfactorily completed.

V. The Proposed Ordering Paragraphs:

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That Columbia Gas of Pennsylvania, Inc. shall not place into effect the rates, rules, and regulations contained in proposed Supplement No. 337 to Tariff Gas – Pa. P.U.C. No. 9. the same being found unjust, unreasonable, and therefore unlawful.

2. That the investigation of Pennsylvania Public Utility Commission, Docket No.: R-2020-3018835 shall remain open until the following Orders have been satisfactorily been completed:

“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 Supplement No. 337 to Tariff Gas – Pa. P.U.C. No. 9. And

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.

3. Columbia Gas of Pennsylvania is hereby ordered to provide a plan to the Commission within 60 days that is acceptable to the Commission that is intended to accomplishing Orders 1. and 4. This plan must use the concept and requirement of the COSO Internal Control-Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) or

relevant parts of the GAO Green Book.

4. Columbia Gas of Pennsylvania is hereby ordered to provide a plan to the Commission within 60 days that is acceptable to the Commission that is intended to accomplishing Orders 1. and 4. This plan must use the concept and requirement of Generally Accepted Audit Standards or the relevant parts of the GAO Yellow Book.

4. The Commission's Bureau of Investigation and Enforcement is hereby ordered to submit like plans to accomplish Orders 1. and 4. that are acceptable to the Commission within 60 days.

5. Columbia Gas of Pennsylvania is hereby ordered to provide information to the Commission as to how it is or will be complying with Title 66 § 2205. Duties of natural gas distribution companies. The law requires *"Each natural gas distribution company shall maintain the integrity of its distribution system at least in conformity with the standards established by the Federal Department of Transportation and such other standards practiced by the industry..."* The expected industry standards are API 1173 regarding safety management systems, ISO 9000 Quality Management, ISO 55000 Asset Management, and ISO 31000 Risk Management.

6. Columbia Gas of Pennsylvania is hereby ordered to the withdrawal the Plumbers Guide as it declares untruths and harms property owners and private plumbing contractors. Columbia must identify individuals who have been harmed and provide restitution to those harmed.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to be the initials 'AG' followed by a flourish.

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