

Via Electronic Mail Only

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

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

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

Dear Judge Pell and Judge Coogan:

Enclosed please are my Exceptions to the Recommended Decision.

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

Respectfully submitted,

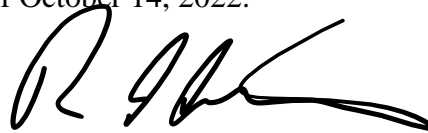
A handwritten signature in black ink, appearing to read "Richard C Culbertson". The signature is stylized with a large initial "R" and a long horizontal stroke at the end.

Richard C Culbertson
1430 Bower Hill Road
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October 14, 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 Exceptions to the Recommended Decision of the Administrative Law Judges 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 14th day of October 14, 2022.



Richard C. Culbertson

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Docket No. R-2022-3031211

eFile

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**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	:	

EXCEPTIONS TO RECOMMENDED DECISION

SUBMITTED BY

Richard C. Culbertson, Pro Se

Complainant

RECOMMENDED DECISION

Before Christopher P. Pell

Deputy Chief Administrative Law Judge and

John Coogan Administrative Law Judge

I. INTRODUCTION

This rate case never got on track to what was represented to do. This rate case should be viewed and determined invalid for multiple reasons and Exceptions of the Administrative Law Judge's Recommended Decision.

The Commission's orders were not followed. There was never a reasonable investigation as ordered to determine the "lawfulness, justness, and reasonableness" of existing and proposed rates... Instead of attempting to fulfill the Commission's orders, the Administrative Law Judge promoted settlements, which are outside of the Commission's order. The settlement became a black box settlement, which is also illegal.

The proposed recommendation in this rate case if approved will leave customers with no assurance that they have been paying and will be paying just and reasonable rates. They will eventually know that they are paying much more than their neighbors that use another gas distribution company.

The practice of rushing to settlement is wrong – regardless of this being a common practice in the past. The practice is illegal based on Title 66 § 501. General powers. (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.*

The Commission never modified its order to allow a black box settlement in lieu of an investigation.

Columbia's existing and proposed rates are much higher than other gas distribution companies in Pennsylvania.

Columbia and the Commission got off track when Columbia was permitted to

replace pipe not by its tested unsuitability for use but by the material content of the pipe. Columbia had an accelerated pipeline replacement program – focusing on the wrong pipes to replace. The federal regulations¹ do not require or make it necessary to replace metal pipe with plastic pipe. An unnecessary cost is an unallowable cost. Replacing metal pipe with plastic pipe is mostly cosmetic. There are advantages and disadvantages for each – when tested, both are suitable for use and last a long time.

The primary advantage for Columbia is that replacing the older metal pipe is that replacement costs are capitalized, which increases the rate base resulting in meeting corporate profit objectives. An older pipe on its own is not a valid indication of needed replacement.

What the customers know from the Commission – Columbia wants more revenue, we will investigate and assure that whatever amount it will be increased it will be lawfulness, justness, and reasonableness.” If the Commission approves the black box settlement, it breaks its promise to ratepayers.

This Recommended Decision focuses more on why Culbertson is wrong (a private citizen, pro se complainant than what is wrong with Columbia. In this Recommended Decision Culbertson is mentioned ~154 times. Investigation ~30 times.

The Recommended Decision is wrong for many other reasons.

Exception 1 (Pages 1 and 2)

*“This decision recommends that the Pennsylvania Public Utility Commission (Commission) approve the Joint Petition for Partial Settlement and Joint Petition for Non- Unanimous Settlement filed in the above-captioned proceeding in their entirety without modification **because they are both in the public interest, consistent with the Public Utility Code,** and supported by*

¹ CFR 49 PART 192 - TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-I/subchapter-D/part-192>

substantial evidence.” (Page1.)

A “*Joint Petition for Partial Settlement and Joint Petition for Non- Unanimous Settlement*” in lieu of what? The Commission's observations and ORDER of April 14, 2022.

“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; 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 ...

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.

Further on April 14, 2022, the PUC issued a press release: “**PUC to Investigate Proposed Rate Increase by Columbia Gas**”²

On April 15, 2022, the Commission issued its Rate Comparison Report³ to the Governor, Lieutenant Governor, and legislatures – omitting the document to the most important stakeholders – the public, including customers. Page 6 provides data on Columbia’s peer group for residential customers.

² [https://www.puc.pa.gov/press-release/2022/puc-to-investigate-proposed-rate-increase-by-columbia-gas#:~:text=For%20Columbia's%20commercial%20customers%2C%20the,%241%2C586.33%20per%20month%20\(7.46%25\).](https://www.puc.pa.gov/press-release/2022/puc-to-investigate-proposed-rate-increase-by-columbia-gas#:~:text=For%20Columbia's%20commercial%20customers%2C%20the,%241%2C586.33%20per%20month%20(7.46%25).)

³ https://www.puc.pa.gov/media/1893/rate_comparison_report_2022.pdf

Natural Gas (Peer Group) as of January 31, 2022

Large Natural Gas Distribution Companies	Avg. Monthly Usage (Mcf)	Customer Charge (\$)	Avg. Monthly Bill (\$)
Columbia Gas of PA Inc.	7	16.75	126.16
National Fuel Gas Distribution Corp.	8	12.00	85.16
PECO Energy Co.	6.7	13.63	67.13
Peoples Natural Gas Co.	7	14.50	85.39
UGI Utilities Inc. – Gas Division	7	15.31	98.85
Raw Average Without Columbia		55.44/4 = 13.86 Or 20.9% above-average peer Columbia proposal \$24.75 Or 78.6 % above average	332.1/4 = 83.03 Or Columbia is 52% above the average peer

This disparity is what the Commission ordered to be investigated -- but was not. The requirements of the Order were not fulfilled and that is not in the public interest.

*2 CFR § 200.404 Reasonable costs. ... In determining reasonableness of a given cost, consideration **must be given to:** (c) Market prices for comparable goods or services for the geographic area.⁴*

The data is alarming – if Columbia were in competitive government procurement, Columbia would be eliminated from consideration for being outside of the competitive range.⁵ Also, if the Commission were a government contractor purchasing goods and services for the Government, as now operated, it would not satisfy the requirements of a *Responsible Prospector Contractor* as provided in FAR Part 9 - - Contractor Qualifications.⁶

So, what did the PUC intend—an investigation as expressed in their Order and published in their press release or a settlement without an investigation? It would be

⁴ <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-E>

⁵ See FAR Part 15 https://www.acquisition.gov/far/part-15#FAR_15_001 and the definition of Source selection information at <https://www.acquisition.gov/far/part-2>

⁶ https://www.acquisition.gov/far/part-9#FAR_9_101

unethical to Order and say one thing and do another. Correct?

It appears the Administrative Laws Judges assumed the Commission meant settlement over the investigation. Because that has been the process before?

It does not appear there is a proper alignment of requirements, capabilities and jurisdictional authority between the Commission and its administrative law judges – these individuals must not be conducting rate case hearings and investigating if rates are just, reasonable, and lawful simultaneously. Administrative law judges and the Commission should not feel comfortable with the current arrangement. The Commission must pause and sort this out. The financial data of Columbia Gas as indicated in the rate comparison reports show – the current arrangement is harmful to customers and communities. Rates are not just and reasonable – thus unlawful as required by Federal and state law.

“The Commission has historically permitted the use of “black box” settlements as a means of promoting settlement” (Page 17) The Commission cannot provide permission nor participate in the circumvention of internal controls placed upon publicly traded corporations.⁷

Internal controls are described in The GAO Yellow Book as published by the Comptroller General of the United States and the GAO Green Book as published by the Comptroller General of the United States.

A knowledgeable person familiar with financial data and statistics would observe that Columbia’s rates are an outlier from Columbia’s peer group and the data alone begs to be investigated. There is something significantly different between Columbia and its peer group.

Columbia may state the Rate Comparison report is irrelevant – but the Pennsylvania Public Utility Code declares it not in title 66 § 308.1. *Consumer protection and information.(b) Rate comparison report.*

(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).
<https://www.law.cornell.edu/uscode/text/15/78m>

Public Interest

The ALJs assertion that the proposed is in the public interest. (Page 1.) The Recommended Decision mentions “public interest” about 100 times. Repeating the term does not make it so. **The definition of “public interest: *The collective well-being of the community of people and entities that the auditors [Commission] serve. (paragraph 3.07)*”⁸**

It is not in the public interest to supervise, manage, conduct rate cases, and make decisions outside of the Internal control framework.

The ALJs also assert that the proposed is consistent with the Public Utility Code. (Page 1.)⁹ That assertion also is not true when the code is viewed in totality.

Chapter 3. Public Utility Commission § 308.2. Other bureaus, offices, and positions. (a) *Establishment of other bureaus, offices and positions.--In addition to the specific bureaus established in this part, the commission may establish other bureaus, offices and positions to perform the following functions:*

(These are continuous functions by employees of the Commission. A rate case does not suspend these duties. These are assigned tasks the Commission is responsible to manage and perform. The tasks are to be performed in an effective and efficient coordinated manner – not in isolated silos but under a system of internal controls as defined by the GAO Green Book, which is applicable by virtue of receiving Government grants – 1 CFR 200¹⁰ Grants.

Each function is required to be performed in a timely manner to fulfill the purpose of the Commission as defined in the Public Utility Code. The Commission’s regulations are not part of the Code -- such as giving themselves the authority to ignore or omit certain required functions and to enter into black box settlements in lieu of performing the required functions in § 308.2 and other sections of the Code.

At the top level some of those functions were not performed but were required as preparation for this rate case.)

⁸ By the Comptroller General of the United States GOVERNMENT AUDITING STANDARDS <https://www.gao.gov/assets/gao-21-368g.pdf>

⁹ TITLE 66 PUBLIC UTILITIES, PART I. PUBLIC UTILITY CODE. The Code applies to the Commissioners, Administrative Law Judges and other employees of the Commission

¹⁰ 2 CFR Part 200 - UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS <https://www.law.cornell.edu/cfr/text/2/part-200>

(5) Monitor industry markets to detect anticompetitive, discriminatory or other unlawful conduct. (6) Insure adequate maintenance, safety and reliability of utility networks. (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 and informal resolution of complaints. (10) Insure adequate safety, insurance, fitness and other requirements relevant to transportation utilities. (11) Take appropriate enforcement actions, including rate proceedings, service proceedings and application proceedings, necessary to insure compliance with this title, commission regulations and orders. (12) Perform other functions the commission deems necessary for the proper work of the commission.

How can the Commission and administrative law judges “(7) Insure adequate service quality, efficiency and availability at just and reasonable rates. without (8) Conduct financial, management, operational and special audits? It cannot be done.

The Commission's operations are fragmented, unaligned and appear uncoordinated. As a result over time – in rate cases, black box settlements seem attractive.

In rate cases, the Commission is not meant to be a passive bystander and not to hide material information from the participants.

Establishing lawful, just and reasonable must be largely a financial exercise. The Commission does not approach rate case cases as a financial exercise, but a legal exercise performed by lawyers with apparent little knowledge of generally accepted financial requirements. The rate base of a utility is mostly determined by Title 66 § 1351. Definitions. ““*Capitalized cost.*” *Costs permitted to be capitalized pursuant to the Uniform System of Accounts and Generally Accepted Accounting Principles.*”

Accountants operate to a standard of due professional care, the evaluation and processing this rate case of \$82.2 million per year in additional operating revenues, does not meet the standard of due professional care.¹¹

¹¹ See AU Section 230 Due Professional Care in the Performance of Work
<https://pcaobus.org/oversight/standards/archived-standards/pre-reorganized-auditing-standards->

The GAO Yellow Book also establishes the standards by which financials and financials audits and reports are to be suitable for use for decision making of stakeholders.¹²

Requirement: Professional Judgment 3.109 Auditors must use professional judgment in planning and conducting the engagement and in reporting the results.

Application Guidance: Professional Judgment

3.110 Professional judgment includes exercising reasonable care and professional skepticism. Reasonable care includes acting diligently in accordance with applicable professional standards and ethical principles.

Attributes of professional skepticism include a questioning mind, awareness of conditions that may indicate possible misstatement owing to error or fraud, and a critical assessment of evidence. Professional skepticism includes being alert to, for example, evidence that contradicts other evidence obtained or information that brings into question the reliability of documents or responses to inquiries to be used as evidence. Further, it includes a mindset in which auditors assume that management is neither dishonest nor of unquestioned honesty.

*3.112 Professional judgment represents the application of the **collective knowledge, skills, and abilities of all the personnel involved with an engagement**, as well as the professional judgment of individual auditors. In addition, professional judgment may involve consultation with other stakeholders, specialists, and management in the audit organization.*

[interpretations/details/AU230#:~:text=The%20exercise%20of%20due%20professional,the%20date%20of%20management's%20assessment.](#)

¹² <https://www.gao.gov/assets/gao-21-368g.pdf>

A rate case is similar to an audit engagement, both end with a report addressed to decision-makers. A rate case, however, does not have the structure and standards of processes to reach a reliable conclusion. A rate case is a poor substitute for a performance and financial audit. The desired objectives may be the same, but the final report is grossly inferior.

REQUIREMENT	GAGAS AUDIT - GAO Yellow Book	RATE CASE PA Title 66
Auditors and audit organizations must comply with an unconditional requirement in all cases where such a requirement is relevant. (Must or shall statements) (Less than 20 must statements.)	Yes	No
Auditors and audit organizations must comply with a presumptively mandatory requirement in all cases where such a requirement is relevant except in rare circumstances discussed in paragraphs 2.03, 2.04, and 2.08. GAGAS uses should to indicate a presumptively mandatory requirement. (There are 374 should statements.)	Yes	No
In all matters relating to the GAGAS engagement, auditors and audit organizations must be independent of an audited entity.	Yes	No
Must use professional judgment in <u>planning</u> and <u>conducting</u> the engagement and in <u>reporting</u> the results.	Yes	No

<p>The <u>audit organization's management must assign auditors to conduct the engagement who before beginning work on the engagement collectively possess the competence needed to address the engagement objectives and perform their work in accordance with GAGAS.</u></p>	<p>Yes</p>	<p>No</p>
<p>The audit organization's management <u>must assign auditors who before beginning work on the engagement possess the competence needed for their assigned roles.</u></p>	<p>Yes</p>	<p>No</p>
<p>An audit organization conducting engagements in accordance with GAGAS <u>must establish and maintain a system of quality control that is designed to provide the audit organization with reasonable assurance that the organization and its personnel comply with professional standards and applicable legal and regulatory requirements.</u></p>	<p>Yes</p>	<p>No</p>
<p>Each audit organization conducting engagements in accordance with GAGAS must obtain an external peer review conducted by <u>reviewers independent of the audit organization being reviewed.</u></p>	<p>Yes</p>	<p>No</p>
<p>Must adequately plan the work necessary to address the audit objectives. Auditors must document the audit plan.</p>	<p>Yes</p>	<p>No</p>
<p><u>Must plan the audit to reduce audit risk to an acceptably low level.</u></p>	<p>Yes</p>	<p>No</p>

<u>Must prepare a written audit plan</u> for each audit.	Yes	No
<u>Must properly supervise</u> audit staff.	Yes	No
Must obtain sufficient, appropriate evidence to provide a reasonable basis for addressing the audit objectives and supporting their findings and conclusions.	Yes	No
Must prepare audit documentation related to planning, conducting, and reporting for each audit. Auditors should prepare audit documentation in sufficient detail to enable an experienced auditor, having no previous connection to the audit, to understand from the audit documentation the nature, timing, extent, and results of the audit procedures performed;	Yes	No
<p>Consideration of Fraud Risk Factors</p> <p>Fraud risk factors do not necessarily indicate that fraud exists but are often present when fraud occurs. Fraud risk factors include the following:</p> <ul style="list-style-type: none"> • Incentive/pressure – Management or other personnel have an incentive or are under pressure, which provides a motive to commit fraud. • Opportunity – Circumstances exist, such as the absence of controls, ineffective controls, or the ability of management to override controls, that provide an opportunity to commit fraud. • Attitude/rationalization – Individuals involved are able to rationalize committing fraud. Some individuals possess an attitude, 	Yes	No

character, or ethical values that allow them to knowingly and intentionally commit a dishonest act.		
Use of fraud risk factors to identify fraud risks. While fraud risk may be greatest when all three risk factors are present, <u>one or more of these factors may indicate a fraud risk.</u> Other information provided by internal and external parties can also be used to identify fraud risks. This may include allegations of fraud or suspected fraud reported by the office of the inspector general or internal auditors, personnel , or external parties that interact with the entity.	Yes	No
Testing of transactions.	Yes	No
Considerations of risk of arriving at improper conclusions.	Yes	No
Identifying deficiencies – as a significant deficiency or a material weakness.	Yes	No
Focus to identify waste, fraud abuse and mismanagement.	Yes	No
Focus to identify improvements	Yes	No
Focus and evaluation of quality	Yes	No
Focus on evaluation of compliance	Yes	No
Focus on and evaluation of internal controls	Yes	No
Free access to financial and non-financial information, facilities personnel, management, policies, and procedures without interference.	Yes	No

Conclusions from the Table

These rate cases have few internal controls to achieve just and reasonable rates for ratepayers.

When the voters of Pennsylvania in 1968 voted to have commissions to be audited and to

conduct audits in accordance with generally accepted audit practices¹³ they expected compliance with the GAO Yellow Book – They would be disappointed today.

On April 14, 2022 when the Commission issued its press release that “PUC to Investigate Proposed Rate Increase by Columbia Gas”¹⁴ rate payers would be disappointed today with the investigation and recommendation today. The recommendation was not based upon an investigation but a black box settlement – indicating to the people – in fact, they do not have a right to know.

2 CFR 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards was published in the Federal Register on 12/26/2013 and was effective on the same day.¹⁵ The Federal Office of Management and Budget would be disappointed the requirements to use the GAO Yellow Book and Green Book still have not been recognized and used today.

The Commission has been singing from the wrong page for years ... as a result, things do not end well for stakeholders. For the most part, the rate-making process is a closed process. Same procedure, the same cast of participants, and for the most part the same type of results which is devoid of systems and processes honed from continual improvements stimulated by internal controls.¹⁶ The process is controlled by the Commission, most of which have not had financial backgrounds.

Accounting before Sarbanes Oxley was largely viewed as an art. Good accountants and finance professionals can artistically provide good financial numbers. The same for lawyers, good lawyers produce good results for their clients. Accounting now is focused on compliance with standards. Lawyering is still focused on art.

¹³ <https://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/00/00.008..HTM>

¹⁴ [https://www.puc.pa.gov/press-release/2022/puc-to-investigate-proposed-rate-increase-by-columbia-gas#:~:text=For%20Columbia's%20commercial%20customers%2C%20the,%241%2C586.33%20per%20month%20\(7.46%25\).](https://www.puc.pa.gov/press-release/2022/puc-to-investigate-proposed-rate-increase-by-columbia-gas#:~:text=For%20Columbia's%20commercial%20customers%2C%20the,%241%2C586.33%20per%20month%20(7.46%25).)

¹⁵ <https://www.federalregister.gov/documents/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards#sectno-reference-200.317>

¹⁶ See Standards for Internal Control in the Federal Government, by the Comptroller General of the United States <https://www.gao.gov/assets/gao-14-704g.pdf> In that Pennsylvania Receives Federal Grants – 2CFR 200 applies 2 CFR Part 200 - UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS including Subpart E - Cost Principles (§§ 200.400 - 200.476)

Internal controls are multidimensional but must be also viewed in totality.

ALJ's Recommended decision is not reliable because of the half-baked process used to arrive at recommendations. The foundation of the competence and success of organizations is based upon internal controls. At the top level – effective and efficient operations (including the safeguarding of assets), Reliable financial and non-financial reporting, and compliance with applicable laws, regulations, standards... Assurance for these components of governance is developed by monitoring – by stakeholders, internal and external audits, and investigations.

The Commission, however, has ignored the fundamentals of Governance particularly in the area of monitoring and enforcement.

Monitoring and enforcement are fundamental requirements and purposes of the Commission as a primary way to protect consumers.

Title 66 § 501. General powers.

*(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;*

The Commission is weak and unreliable in enforcement. The first-hand experience of Culbertson has shown that since 2016 when Columbia informed him, they had abandoned his customer's service line. Then required him to put in place a new customer's service line (with the same form, fit and function as the former line) thereby interfering with his business and costing him significant delays and money. The Commission did not enforce 52 Pa. Code § **59.36**.

Abandonment of inactive service lines. (This Commission regulation pertains to service lines (utility property) and not customer's service lines (not private real property). The Commission has the responsibility to have experienced personnel that knows applicable laws and regulation and enforce them solely under the Commission's authority – with or without complaint. The same with 52 Pa. Code § 59.18. Meter, regulator and service line location. (8) Meters and service regulators may not be installed in the following locations: (i) Beneath or in front of windows.



No one in the Commission had the knowledge, courage, or vision to conclude the Columbia's meter was placed beneath a window at Culbertson's property at 1609 McFarland Road, Dormont, PA.

Identification of non-compliances of a utility does not need a complaint – it needs recognition by an empowered and knowledgeable PUC employee. Under no circumstances should Columbia's meter have remained in this non-compliant location since October 2016. This photo is the poster child of the Commission's deliberate ineptitude and unwillingness to recognize the obvious in processing formal customer complaints. This also shows Columbia has unusual control over the Commission.

In 1968 the voters of Pennsylvania added to the Pennsylvania Constitution

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

*ARTICLE VIII TAXATION AND FINANCE § 10. Audit. The financial affairs of any entity funded or financially aided by the Commonwealth, and **all** departments, boards, **commissions**, agencies, instrumentalities, authorities and institutions of the Commonwealth, **shall be subject to audits made in accordance with generally accepted auditing standards.***

There is no record found that shows the Pennsylvania Public Utility Commission ever was subject to these audits. In a government environment, the standard used is the GAO Yellow

Book.¹⁷

The Commission without following the proper standards and doing the right thing, their work is unreliable and substandard – certainly not what stakeholders expect! No explanation or excuse will do. Each Commissioner and others involved in this rate case were and are subject to the Pennsylvania Constitution –

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.” That includes making sure those audits occur.

For some reason, the Commission has concluded that what applies to other organizations does not apply to the Commission. That is wrong and makes the Commission’s work not trustworthy.

The Commission should recognize what is required of other Pennsylvania Commonwealth agency requirements with internal controls. What applies to these other agencies regarding internal controls applies to the Public Utility Commission. (2 CFR200)

Management Directive 325.12, Amended – Standards for Enterprise Risk Management in Commonwealth Agencies¹⁸

Date: October 1, 2021

¹⁷ GOVERNMENT AUDITING STANDARDS By the Comptroller General of the United States <https://www.gao.gov/assets/gao-21-368g.pdf> This is referred to as the GAO Yellow Book. This document was first published in the 1970s.

¹⁸ https://www.oa.pa.gov/Policies/md/Documents/325_12.pdf

(In part.)

5. POLICY.

e. Agencies must assess the effectiveness of their Internal Controls and their adherence to the components and principles noted in the Green Book. Assessments shall cover **all** aspects of an agency's operations, reporting, and compliance with applicable laws and regulations. Results of the Internal Control assessments shall be documented within a report titled the Enterprise Risk Management Report (ERM Report) in accordance with this directive and The ERM Guide.

Enterprise Risk Management Report (ERM Report) (In part.)

Attestation

The [Agency] has completed the internal control assessment for the fiscal year ending June 30, [Year]. I have reviewed the Enterprise Risk Management report, Agency Risk Register and Control Matrix. My signature indicates agreement with the assurance statements below.

- ***I acknowledge that I am responsible for designing, implementing, and operating an effective internal control system for my agency that incorporates the five components of internal control as defined by the 2014 Standards for Internal Control in the Federal Government - Green Book.***
- *I acknowledge I have retained the supporting documentation for this Enterprise Risk Management Report. We have developed written corrective action plans, including responsible parties and completion deadlines, to address any deficiencies identified.*
- *I acknowledge there may be areas in the Agency that have not been fully addressed for the fiscal year ending June 30, [Year]. We are committed to addressing any control areas not previously identified and complete the internal control processes for these areas during the fiscal year ending June 30, [Year].*
- ***I acknowledge that a monitoring plan will be developed, and a risk-based approach will be used in testing the controls during the fiscal year ending June 30, [Year].***

If you have any questions regarding our submission, please reach out to [Agency Contact] at [Agency Contact Phone] or [Agency Contact Email].

Sincerely,

[Agency Head Signature]

[Agency Head Name]

(Emphasis added)

Going through the internal control process may be fairly long, complex, and painful for the Commission, but the Commission and its stakeholders will be better for it.

The source documents that require that ERM reports be completed by the rest of Pennsylvania's agencies also apply to the Commission. The Commission receives Federal grant money, which makes 2 CFR 200 apply to the Commission. The purpose of 2 CFR 200 is to protect taxpayers and make government operations more effective and efficient. The Commission must do a better job in fulfilling its mission.

Substantial Evidence

The process of determining if rates and charges are just and reasonable through a rate case suppresses evidence and greatly favors the utility. The Culbertson motions and interrogatories show that. A due diligent inquiry was not permitted.

The EXCEPTIONS TO RECOMMENDED DECISION will touch on some of the omissions of the requirements of Title 66. § 308.2.

Exception 2 (Page 2.)

“This decision also recommends that the Commission deny Richard C. Culbertson’s complaint against Columbia”

The Complaint of Culbertson should not have been denied but processed as required – Columbia was required to investigate per *52 Pa. Code § 59.13. Complaints. (a) Investigations. Each public utility shall make a full and prompt investigation of complaints made to it or through the Commission by its customers.*

The Introduction of this document lays out a lot of facts and circumstances that show the

Culbertson Formal Complaint should have been dealt with in good faith starting with requiring Columbia to investigate the Culbertson complaint. The ALJ's encouraging settlement over investigation indicated to others this rate case would be a settlement, not an actual investigation. There would be no abnormal handling and recommendation of this rate case that occurred with Judge Katrina L. Dunderdale.¹⁹ R-20203018835 with a recommended decision of no increase in rates, December 4, 2020. Or a change of approach from ALJ Judge Hoyer's in the 2021 Rate Case of Columbia Gas.

Experience and observation have shown, Columbia gets its way – that is the drill.

The Culbertson complaint needed to be handled with due process, but it was not.

These rate cases also show why judicial independence is so important in America to achieve justice.

On May 2, 2022, Richard C. Culbertson filed a Motion he captioned as follows: Motion to Suspend Columbia Gas of Pennsylvania Rate Case Hearings, Docket No. R-2022-3031211, Until Ordered Investigations, and Pennsylvania Constitutionally Required and Pennsylvania Statutorily (sic Statutorily.) Required Financial and Performance Audits Have Been Diligently Planned, Performed and Completed by a Competent, Independent and Experienced Audit Firm that Can Provide the Status – Material Weaknesses, Significant Deficiencies and a Level of Assurance of Columbia's Internal Controls in the Areas of - Effective and Efficient Operations – Safeguarding Assets, Reliable Reporting of Financials and Non-Financials and Compliance with Laws,

What was needed to adequately determine and fulfill the Commission's order on this \$82 Million rate case was an independent and competent inquiry. The Complainants, including Culbertson, were not independent or competent. The standard of financial reports in a government environment is current, accurate, and complete.²⁰ Independent audits can obtain this quality of information but complainants in a rate case cannot.

¹⁹ <https://www.puc.pa.gov/pdocs/1686390.pdf> of December 4,2020

²⁰ 15.406-2 Certificate of Current Cost or Pricing Data. <https://www.acquisition.gov/far/15.406-2>

In data management the motto has been for a long time and is true in rate cases – avoid garbage in – garbage out. To avoid garbage in – continual testing is required.

The Motion was offered in good faith, but the Commission and Columbia wanted no part of a change with the past and the ALJs denied the motion on May 16, 2022.

The ALJ did not enforce PUC regulation 52 Pa. Code § 59.13. Complaints. Complaints.
(a) Investigations. Each public utility shall make a full and prompt investigation of complaints made to it or through the Commission by its customers.

The ALJs had the duty to enforce the PUC's regulation but did not. Allowing Columbia's management to self-correct is an important element of a rate case and is beneficial to Columbia and other participants to keep small problems small. Self-corrections and improvement are management's responsibility --- not for external or internal attorneys to reactively reject.

Other efforts to go in the direction of the Commission's observations and order of April 14, 2022 – to investigate ... the lawfulness, justness, and reasonableness of Columbia's existing and proposed rates were rejected by either the ALJs or the silent rejection of the Commission.

Since independent audits and investigations were rejected, finally Culbertson On July 7, 2022, Complainant Culbertson served his Sets I, II, and III interrogatories on Columbia.

The most significant questions Columbia refused to answer regarding cost accounting standards used, and operational safety issues exposed by Columbia's employees. The answers to these interrogatories were critical to a fairer outcome of this rate case. These questions would have been routine in a Generally Accepted Government Audit Standards (GAGAS) as required by 2 CFR 200 – Grants. The Commission and Columbia through rate cases wall themselves from critical review.

The safety issues brought forth by employees should have been exposed, as public safety is at risk. The Commission has a primary responsibility to protect customers by exposing and requiring corrections. Essentially the Commission and Columbia wanted to keep these safety

issues hidden.

The Commission's Rate Comparison Report shows that Columbia's expenditures and rates are much higher than peer gas distribution companies in Pennsylvania. The issue for this rate case and stakeholders is why. Not getting to the bottom of why Columbia's rates are so much higher than others is irresponsible.

Exception 3 (Page 11)

III. FINDINGS OF FACT 4. *I&E is responsible for protecting the public interest in proceedings before the Commission; this responsibility requires the balancing of the interests of ratepayers, the regulated utility, and the regulated community as a whole.*

This statement is not true in whole and not consistent with Pennsylvania Public Utility Code and not consistent with the framework of rate cases. The Commissioners may have the responsibility of balancing interests, but prosecutors in an adversarial legal system certainly do not. Erica L. McLain is a Prosecutor representing the PUC's Bureau of Investigation and Enforcement (I&E). The role of a prosecutor is to seek, look into wrongdoing, and collect evidence to prosecute wrongdoing of public utilities. The Public Utility Codes do not include a role for PUC's Bureau of Investigation and Enforcement to be balancing the interest of utilities and customers.

The confusion about the duties of this function leaves gaps in achieving just and reasonable rates and safe operations. This PUC function does not need permission to investigate alleged or suspected wrongdoing of a public utility. They have free access to Columbia's operations and from this point do not investigate and enforce when they are supposed to. They should be in the active business of promoting transparent material information, righting wrongs, and using their power and authority to enforce the Public Utility Code.

When prosecutors are passive or act like advocates, this harms the fair outcomes of rate

cases.

16. Columbia and I&E presented testimony as relates to the appropriateness of Columbia's accelerated pipeline replacement program. Columbia St. No. 1 at 14; Columbia St. No. 14 at 32; I&E St. 4 at 21.

Exception 4 (Page 12)

III. FINDINGS OF FACT 13. The Settlement set forth in the Joint Petition for Partial Settlement resolves all issues in this proceeding except for Revenue Allocation and Rate Design as well as issues raised by Complainant Richard C. Culbertson.

The fact that Culbertson was excluded to participate in the secret settlement talks impairs the credibility and fairness of the settlement.

The ALJs should have placed rules to include all complainants in settlement talks. It is widely known diverse groups make better outcomes than homogeneous groups.²¹

As for Columbia it is not a good strategy to be "**willfully ignorant of the offense**" or could be founded to have "**condoned**" an offense.^{22\}

Exception 5 (Page 13)

15. *The revenue allocation set forth in the Joint Petition for Non-Unanimous Settlement is within the range of possible outcomes had revenue allocation been fully litigated.*

The Settlement increase is approximately 54% of Columbia's original request of

²¹ Why Diverse Teams Are Smarter by David Rock and Heidi Granthttps <https://hbr.org/2016/11/why-diverse-teams-are-smarter> November 04, 2016 and New Research: Diversity + Inclusion = Better Decision Making by Erik Larson <https://www.forbes.com/sites/eriklarson/2017/09/21/new-research-diversity-inclusion-better-decision-making-at-work/?sh=3f5432864cbf>

²² CHAPTER EIGHT - SENTENCING OF ORGANIZATIONS <https://www.ussc.gov/guidelines/2018-guidelines-manual/2018-chapter-8> An individual "**condoned**" an offense if the individual knew of the offense and did not take reasonable steps to prevent or terminate the offense. (J) An individual was "**willfully ignorant of the offense**" if the individual did not investigate the possible occurrence of unlawful conduct despite knowledge of circumstances that would lead a reasonable person to investigate whether unlawful conduct had occurred.

\$82.2 though less than that requested by the Company, will enable the Company to continue to provide safe and reliable service to its customers. Columbia Statement in Support of Partial Settlement at 4.

This finding of fact is unreasonable – What publicly traded company would submit a document asking for \$82.million for capital expenditures then settle for \$44.5 Million? Sounds too good to be true! And probably is! Business does not work this way. One or both of the numbers are wrong. So does this mean shareholders are taking a big loss?

In the Government contract arena – there is a law Truth In Negotiations referred to as TINA – this law was passed to protect taxpayers from Government Contractor abuses. Something similar is needed to protect rate payers.

The Commission must act with prudence -- what is motivating Columbia to settle for this amount? Just maybe this settlement can take the place and distract from an investigation that the Commission ordered?

Exception 6 (Page 13)

16. Columbia and I&E presented testimony as relates to the appropriateness of Columbia's accelerated pipeline replacement program. Columbia St. No. 1 at 14; Columbia St. No. 14 at 32; I&E St. 4 at 21.

The testimony of Columbia and I&E is self-servicing. Columbia and I&E have not shown themselves to be experts in allowable cost as determined by:

- 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.

- PA Title 66 § 1351. Definitions. "Capitalized cost." Costs are permitted to be capitalized pursuant to the Uniform System of Accounts and Generally Accepted Accounting Principles.
- 2 CFR § 200.404 Reasonable costs. 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. ... In determining the reasonableness of a given cost, consideration must be given to:

- (a) *Whether the cost is of a type generally recognized as ordinary and necessary [essential] for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.*
- (b) *The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.*
- (c) *Market prices for comparable goods or services for the geographic area.*

Opinions of those who have an interest and participated in a non-compliant practice are biased and do not provide reliable facts. This is exactly why independent GAGAS auditors and experts need to investigate and make reliable determinations. Culbertson’s expert opinion as an asset management professional and manager for many years, starting in 1989 in a government environment, has concluded the practice is highly suspect and accelerated pipeline replacement is waste of pipelines suitable for use and is an unallowable cost.

Unnecessary cost for unnecessary accelerated pipe replacements with associated write-offs is unnecessary – not essential, imprudent, and looks like a source of waste, fraud, and abuse. The words of the practice accelerating pipeline replacement – is the smoke and the Commission’s Rate Comparison Report is the fire. If the owner of a private company doing commercial work wanted to accelerate the retirement of suitable-for-use property, they have the power to do so. Probably not for traded companies or companies doing some sort of regulated government work. The Commission does not have the authority to allow a utility to violate laws and regulations.

To what extent there has been a generation of unallowable must be determined by competent GAGAS forensic auditors.

Exception 7 (Page 13)

18. Mr. Culbertson did not submit any written testimony or exhibits for the record in this proceeding.

Not having written testimony or exhibits was a calculated result of the Commission

preventing independent audits and investigations and denying interrogatories related to significant and material financial information and safety issues. This suppressed substantial evidence to be entered in the record of this rate case.

Exception 8

The Recommended Decision omits any acknowledgment or discussion of the multiple written letters to the Commission requesting opposition to this rate case.

- OPPOSITION (RATE CASES) 4/1/2022
<https://www.puc.pa.gov/pcdocs/1739186.pdf>
- <https://www.puc.pa.gov/pcdocs/1739188.pdf>
- <https://www.puc.pa.gov/pcdocs/1739189.pdf>
- 4/18/2022 <https://www.puc.pa.gov/pcdocs/1739189.pdf>
- 4/21/2022 <https://www.puc.pa.gov/pcdocs/1741473.pdf>
- <https://www.puc.pa.gov/pcdocs/1741474.pdf>
- 5/2/2022 <https://www.puc.pa.gov/pcdocs/1742682.pdf>
- 5/3/2022 Official Protest <https://www.puc.pa.gov/pcdocs/1742723.pdf>
- 5/6/2022 <https://www.puc.pa.gov/pcdocs/1743288.pdf>
- **PROTEST (OFFICIAL)** 5/10/2022 <https://www.puc.pa.gov/pcdocs/1743615.pdf>
- OPPOSITION (RATE CASES) 5/10/2022 <https://www.puc.pa.gov/pcdocs/1743622.pdf>

**PUBLIC COMMENT FILE MAY BE
VIEWED IN THE COMMISSION'S
FILE ROOM**

There are others from the public who wrote in and opposed or protested Columbia's proposed rate increase. It appears these written opposition or protest letters were not considered and are now hidden from public view. This is disrespectful on the part of the Commission. The contents of these letters may have benefited the complainants and decision-makers of the Commission in this rate case.

Exception 9 (Page 29)

*“Under the Partial Settlement, with only a few select exceptions further explained herein, the settlement revenue requirement is a **“black box” amount**. Columbia believes that “black box” settlements facilitate agreements, as parties are not required to identify a specific return on equity or identify specific revenues and/or expenses that are allowed or disallowed. Columbia Statement in Support of Partial Settlement at 5”.*

Black box settlements are illegal in Pennsylvania.

Title 66 § 1301. Rates to be just and reasonable.

(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.

If documentation is in a black box, how can it be reasonable? Reasonable ideas are transparent. There are no transparent trails to justify decisions.

Title 66 § 523. Performance factor consideration. (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.

This law above prohibits Black Box Settlements

Title 66 § 335. Initial decisions and release of documents. ... whenever the commission conducts an investigation of an act or practice of a public utility and makes a decision, enters into a settlement with a public utility or takes any other official action, as defined in the Sunshine Act, with respect to its investigation, it shall make part of the public record and release publicly any documents relied upon by the commission in reaching its determination,

A black box settlement is a shiny²³ thing that distracts from the mission at hand and attempts to circumvent the Commission's orders to investigate proposed and existing rates.

*Title 66 § 501. General powers.(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.*

The Commission did not modify its Order of April 14, 2022, to allow for a black box settlement. – Right? No, it did not. Sort of like -- The participants was ordered to go the Art Museum in Philadelphia and enjoy but the driver took them to Kennywood in Pittsburgh to enjoy instead.

Exception 10 (Page 29)

I&E notes that it agreed to settlement in the amount of \$44.5 million only after I&E conducted an extensive investigation of Columbia's filing and related information obtained through the discovery process to determine the amount of revenue Columbia needs to provide safe, effective, and reliable service to its customers.

When dealing with a requested revenue increase of ~ \$82 Million due professional care is required. That care is based upon generally accepted audit standards – the GAO Yellow Book. There is no assurance this investigation was performed extensively and competently in accordance with generally accepted audit standards. Self-assertion is not good enough. If they performed audits those audits should have been made public. I&E acts more like an advocate of past practice than a prosecutor in a rate case.

Exception 11 (Page 29)

“The additional revenue in this proceeding is base rate revenue and has been agreed to in

²³ 5 Ways to Overcome Shiny Object Syndrome [https://lucemiconsulting.co.uk/shiny-object-syndrome/#:~:text=Shiny%20object%20syndrome%20\(SOS\)%20is%20a%20habit%20that%20causes%20someone,something%20everyone%20else%20is%20doing.](https://lucemiconsulting.co.uk/shiny-object-syndrome/#:~:text=Shiny%20object%20syndrome%20(SOS)%20is%20a%20habit%20that%20causes%20someone,something%20everyone%20else%20is%20doing.)

*the context of a "Black Box" settlement with limited exceptions. A prior Commission Chairman explained that black box settlements are beneficial in this context because of the difficulties in reaching an agreement on each component of a company's revenue requirement calculation, noting that the "[d]etermination of a company's revenue requirement is a calculation that involves many complex and interrelated adjustments affecting revenue, expenses, rate base and the company's cost of capital. To reach an agreement on each component of a rate increase is an undertaking that in many cases would be difficult, time-consuming, expensive and perhaps impossible. Black box settlements are an integral component of the process of delivering timely and cost-effective regulation."*¹⁴ *I&E Statement in Support of Partial Settlement at 6-7.*"

This is a justification to defy the Commission's order of April 14, 2022. The prior Chairman of the PUC was wrong then justifying illegal black box settlement. This Recommendation to adopt a black box settlement is wrong now. This approach deceives customers. The Commission must do the work to do this right and they have the power and funding to do it. Good management by now would have developed methods, processes, systems, and safeguards to fulfill these requirements of the Commissions, but those abilities have never been developed or have atrophied.

Exception 11 (Page 37 - 39)

4. Tax Repair Allowance and Mixed Service Cost Normalization Treatment

... Columbia notes that no party objected to the continuation of the previously approved normalization accounting treatment for MSC.

Starting on Page 37 there are a series of accounting-type issues. From what is presented, it is not understandable.

Public utility accounting is complex and requires several books including FERC, GAAP, IRS, Recovery... The Commission does not have the authority to change requirements over FERC, GAAP, Government Accounting (CAS and Cost Principles) IRS, and Recovery. It may have some latitude over recovery. Rate Case participants should not express opinions over issues

outside of the jurisdiction of the Commission or of which they are not competent. Even the Commission should not be arbitrary and capricious in its decisions.

Silence is not a sign of concurrence.

Excluding Culbertson from these accounting discussions were harmful to the discussions and the outcome of this rate case.

Exception 12 (Page 63)

One could argue that these three entities alone [Office of Consumer Advocate, Office of Small Business Advocate, and PUC Bureau of Inspections and Enforcement] constitute representation of the entire public whose welfare is to be protected.[123]

All three of these entities, the Statutory Parties, actively participated in this proceeding as well, and all three participated in the negotiation of the Settlement contained in the Joint Petition for Partial Settlement and have stated their support for its adoption by the Commission.

And that would be a poor argument based upon Culbertson's participation and observations in the workings of the Commission as a private citizen and Pro Se since 2017.

Each of these three organization is directly shaped by the Commission and the PUC's Administrative Law Judges.

Administrative Law Judges determine what interrogatories to the public utility get answered. Culbertson's experience shows only about 10 -15 percent get answered – and many of these are not quality answers. Columbia objects and the ALJ supports Columbia. Material information does not get discovered and entered into the record. The ALJs shape the record to the benefit of the utility [Columbia].

The Office of Consumer Advocate has not been filled since 2013, Yes there is an acting Consumer Advocate – acting individuals do not have the accepted power as the individual that holds the post. The Office of Small Business Advocate has a new Advocate.

Each of these state government offices and employees has learned to go along with the drill guided and is constrained by experiences with the Commission and the Commission's employed Administrative Law Judges. These state advocates individuals would do better with judges that are independent of the Commission, but they are not. Those who work in the advocates are good public servants and are competent in what they do. Culbertson is thankful for them.

Exception 12 (Page 62)

These parties engaged in extensive discovery with the Company, had their expert witnesses review Columbia's filing and testimony, submitted direct, rebuttal, and surrebuttal testimony analyzing Columbia's filing,¹²² were represented by counsel at the evidentiary hearing in this proceeding during which their testimony and exhibits were admitted into the record, and engaged in settlement discussions that resulted in this Partial Settlement.

There may have been a period of discovery – but discovery does not take the place of financial, and performance as required by the Pennsylvania Public Utility Code. To be an audit the exercise must be in conformance with GAGAS – the GAO Yellow Book. Whatever was done is not sufficient for rate decision-making purposes. Rate cases are primarily about money – and money is audited by competent auditors. Whatever work product was provided it was not by a qualified auditor looking in totality into Columbia's operations.

Exception 13 (Page 108)

Mr. Culbertson alleges that the information submitted by Columbia in this rate case is not reliable because proper audits have not been conducted. Columbia RB at 10 (citing Culbertson MB at 30). Columbia asserts Mr. Culbertson fails to recognize that Columbia is subject to regular audits by the Commission, which are publicly available.²⁴³ Columbia RB at 11. Columbia states Mr. Culbertson also fails to acknowledge that the Company undertakes internal audits on a routine basis.²⁴⁴

The problem – Culbertson does recognize that Columbia is not being audited by the Commission in accordance with Generally Accepted Audit Standards – not in quantity nor quality. Pennsylvania Public Utility Code requires audits *Title 66 § 308.2. (8) Conduct financial, management, operational and special audits.*

The Commission did perform a management audit – not a financial audit and was published on July 16, 2020.²⁴ that covered a period of 2014-September 30, 2019.

There has been no recent financial audit published. A rate case pertains primarily to financial issues. *Why would Columbia claim it is subject to regular audits when they are not?*

There was reported a financial audit of Columbia in 2009 and it was found Columbia had overcharged \$77.8 Million. A subsequent financial audit has not been found.²⁵ *"Companies such as Columbia are not permitted to make a profit on the natural gas commodity,"* PUC Vice Chairman Tyrone Christy said in a statement. *"This refund shows how companies are held accountable for over collections."* <https://archive.triblive.com/news/lower-natural-gas-prices-to-reduce-consumers-monthly-bills/>

Internal audits do not count and are not reliable on their own.

Exception 14 (Page 108)

Mr. Culbertson also expressed safety concerns regarding the installation of curb valves and the ability to shut off gas in case of an emergency. Columbia RB at 15 (citing Culbertson MB at 36).257 However, Columbia asserts Mr. Culbertson did not present any evidence that safety issues exist on Columbia's system. Columbia RB at 15. To the contrary, Columbia witness Kempic explained that Columbia's safety standards require that each service line have a shut off valve outside the home, and the safety standards specify when a curb valve should be used.258

²⁴ <https://www.puc.pa.gov/press-release/2020/puc-releases-columbia-gas-audit-report-and-implementation-plan>
<http://www.puc.pa.gov/pcdocs/1670369.pdf>

²⁵ <https://www.post-gazette.com/business/finance/2009/10/09/Columbia-Gas-to-refund-millions-to-customers/stories/200910090211>

*Mr. Kempic also explained that a meter valve enables quicker shutoff during priority situations since it is located above ground and next to the meter, which makes it easy to locate for a quick resolution. A curb valve, on the other hand, is not in plain sight or near the meter, and often requires personnel to be called out to locate it.*²⁵⁹ *Columbia RB at 15.*

I&E witness Merritt agreed with Columbia witness Kempic and stated as follows with respect to Columbia's practice of installing curb valves:

257 *A question regarding the use of curb valves arose during the public input hearing. (Tr., p. 87).*

Q. DO YOU AGREE THAT COLUMBIA'S PRACTICE COMPLIES WITH THE REGULATIONS?

A. Yes. According to § 192.365, "each service line must have a shutoff valve in a readily accessible location that, if feasible, is outside of the building." § 192.365 also states, "Each service line valve must be installed upstream of the regulator or if there is no regulator, upstream of the meter."

§ 192.365 does require a "covered durable curb box or standpipe" for each underground service line valve, but it does not specify that an operator must install the upstream shutoff valve at the curb. It is a common practice for operators to install an upstream valve at the riser and not at the curb. This practice is satisfactory according to § 192.365.[260]

To be clear, Columbia and the Commission have given the short shrift to safety. George Milligan was not properly questioned nor were the concerns of Columbia's workers when they voted to go on strike for safety reasons.²⁶

Mr. Kempic is wrong and so is I&E witness Merritt. (Who is PUC's I&E protecting?)

²⁶ More than 200 Columbia Gas workers authorize strike <https://www.wtae.com/article/columbia-gas-workers-authorize-strike/38221293#> The workers said they are concerned over unsafe work by contractors. ... Union members said there have been at least 50 safety incidents caused by contractors over the last 13 months involving equipment not being installed properly, leading to gas leaks in homes.

Title 66 § 192.803 Definitions. Abnormal operating condition means a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

(a) Indicate a condition exceeding design limits; or

(b) Result in a hazard(s) to persons, property, or the environment.

... Qualified means that an individual has been evaluated and can: Perform assigned covered tasks; and Recognize and react to abnormal operating conditions.

George Milligan Columbia's employee in his testimony showed he could recognize abnormal operational conditions so did Culbertson in October 2016 when Columbia installed its service line at 1608 McFarland Road in front of a window after they abandoned their service line that did have a curb valve.

Mr. Kempic, an official of the Commission, and Mr. Merritt should be well aware of the gas explosion in Millersville, Pennsylvania.

The technician was near the gas meter for 206 Springdale Lane when the explosion occurred. The two gas employees, who were digging at the main in front of the home, had fully excavated the plastic main and were ready to squeeze-off the plastic main line when the explosion occurred. The representative from LASA was walking in the cul-de-sac when the explosion occurred. The technician located near the gas meter was killed, and three others were injured.

There are also other legal and practical reasons to install curb valves. *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.

Line testing is a maintenance function. The curb valve becomes the method of determining the location of a leak -- on the utility's property or the private property

owners.

Conclusion:

The Exceptions that are being submitted are a sample of the deficiencies and weaknesses of the rate case proceeding. It does not satisfy the Commission's Order of April 14, 2022.

This rate case is not to the standard the public expects and the legislature has required in law. The Recommendation is certainly not in the public interest.

The Recommended Decision should be rejected in its entirety. A do-over is necessary that more faithfully follows the Commission's Order of April 14, 2022 – and this is in the public's interest.

The Commission is encouraged to improve its operations to better serve the public. It can start with recognizing operations are not what they should be and need to be improved. Bring in the right experts to complete internal audits per the GAO Yellow Book and install internal controls per the GAO Green Book.

Stop protecting bad practices and decisions of the past and make necessary corrections.

Do what is in the public's interest.



Date: October 14, 2022

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