FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of Tariffs to Recover Through an Automatic Adjustment Clause Costs Associated with the Establishment of an Infrastructure Replacement Program and for Approval of Certain Accounting Treatment.	)	Case No. 07-478-GA-UNC

MOTION TO INTERVENE AND COMMENTS BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

Joseph P. Serio, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
614-466-9565 (Telephone)
serio@occ.state.oh.us

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BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

Pursuant to R.C. Chapter 4911, R.C. § 4903.221, and Ohio Adm. Code § 4901-1-11, the Office of the Ohio Consumers' Counsel ("OCC"), on behalf of all the residential utility consumers of Columbia Gas of Ohio, Inc. ("Columbia" "COH" or "the Company"), moves the Public Utilities Commission of Ohio ("Commission" or "PUCO") to grant OCC's intervention in the above-captioned proceeding. OCC also provides Comments in opposition to the Company's Application filed on April 25, 2007 ("Application"). The reasons for granting OCC's intervention and for rejecting COH's request are further set forth in the attached Memorandum in Support.

In the event that the Commission does not completely reject the proposals in the Application, then in the alternative OCC requests that the Commission not consider COH's request unless it is made as part of a full rate case under R.C. § 4909.18 and R.C. § 4909.19. If the Commission does proceed to consider the proposals, then the Commission should set the matter for a full evidentiary hearing, complete with discovery

obligations and a clear burden of proof on Columbia as required by R. C. § 4929.04 and R.C. § 4929.05.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

Joseph P. Serio, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
614-466-9565 (Telephone)
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MEMORANDUM IN SUPPORT AND COMMENTS

I. INTRODUCTION

On April 25, 2007, COH filed an Application with the Commission in the above-captioned case. COH sought Commission approval to permit the Company to implement an automatic adjustment mechanism ("IRP Rider") designed to recover the costs associated with the Commission-ordered riser inventory and identification process, the replacement of customer-owned risers prone to failure, and the replacement of customer owned service lines.[1] [2]

COH's demands are demonstrated by its directive to the Commission that Columbia would agree to take on the financial obligations associated with the gas riser issue, "**if and only if**, the costs of doing so are funded through the proposed IRP Rider."[3]

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[1] Application at 1.

[2] See, *In the Matter of the Regulation of the Purchased Gas Adjustment Clause Contained Within the Rate Schedules of Columbia Gas of Ohio, Inc. and Related Matters,* Case Nos. 04-221-GA-GCR and 05-221-GA-GCR, Post Hearing Brief of the OCC at 1-8 (April 18, 2007).

[3] Application at 5. (Emphasis added).

Rather than asking the Commission for the regulatory permission to take these steps, COH is **dictating** to its customers and the Commission the terms under which it will act. Regardless, Columbia has a duty to act as part of its obligation to serve and to provide adequate service. Adequate service certainly encompasses the notion that service be safe and not pose a danger to customers.

COH's request is of importance to residential customers because it could lead to future rate increases[4] -- rate increases without the necessary procedural safeguards provided by R.C. § 4909.18 and § 4909.19. OCC is the statutory representative of COH's residential gas customers and as such, has a real and substantial interest in this proceeding, as discussed below.

Despite the fact that this is the third docket that COH has participated in[5], and second Application[6] that COH has filed regarding the gas riser issue, the Company has provided absolutely no documentation or support for the alleged costs it claims. These alleged expenses must be closely scrutinized in the light of day as part of an evidentiary hearing before the Commission grants COH any regulatory relief.

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[4] The IRP rider would constitute a rate increase for customers.

[5] See *In the Matter of the Investigation of the Installation, Use, and Performance of Natural Gas Service Risers Throughout the State of Ohio and Related Matters*, Case No. 05-463-GA-COI ("Case No. 05-463"), Entry (April 13, 2005); see also *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Authority to Modify its Accounting Procedures to Provide for the Deferral of Expenses Related to the Commission's Investigation, Use and Performance of Natural Gas Service Risers,* Case No. 07-237-GA-AAM ("Case No. 07-237"), Application (March 2, 2007).

[6] See *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Authority to Modify its Accounting Procedures to Provide for the Deferral of Expenses Related to the Commission's Investigation of the Installation, Use, and Performance of Natural Gas Service Risers*, Case No. 07-237-GA-AAM, Application (March 2, 2007).

II. MOTION TO INTERVENE

OCC moves to intervene under its legislative authority to represent residential utility consumers in Ohio, pursuant to R.C. Chapter 4911. R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Columbia's residential consumers may be "adversely affected" by this case, especially if the consumers are unrepresented in a proceeding regarding the proposed IRP Rider. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Commission to consider the following criteria in ruling on motions to intervene:

(1) The nature and extent of the prospective intervenor's interest;

(2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;

(3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and

(4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing the residential consumers of Columbia. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for consumers will include advancing the position that Columbia's rates should be no more than what is reasonable and permissible under Ohio law, for service that is adequate under Ohio law. This interest includes that the rates for Columbia's residential customer should be no more than what is reasonable and lawful.

OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceeding. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the residential utility consumer advocate, OCC has a very real and substantial interest in this case where Columbia has proposed a rate increase in the form if an IRP Rider.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission shall consider the "extent to which the person's interest is represented by existing parties." While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio's

residential utility consumers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio recently confirmed OCC's right to intervene in PUCO proceedings, in ruling on an appeal in which OCC claimed the PUCO erred by denying its intervention. The Court found that the PUCO abused its discretion in denying OCC's intervention and that OCC should have been granted intervention.[7]

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of all of Columbia's 1.4 million residential consumers, the Commission should grant OCC's Motion to Intervene.

III. COMMENTS

A. COH has failed to prove that it is not financially responsible for gas riser facilities.

The linchpin of COH's Application and general position regarding natural gas risers is that currently COH, as a Local Distribution Company ("LDC"), has absolutely no responsibility regarding risers, but that the responsibility rests with individual customers.[8] Although Columbia makes this claim, it cannot deny that service lines are pipelines under the rules and regulations of the United States Department of Transportation ("USDOT"). USDOT, 49 C.F.R. § 192.3, defines a "distribution line" as "a pipeline other than a gathering or transmission line." The same section defines a "service line" as "a distribution line that transports gas from a common source of supply

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[7] *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶18-20 (2006).

[8] Application at 3-4.

to an individual customer." Accordingly, every provision in the Pipeline Safety Rules that refers to an operator's responsibility to the pipeline includes a responsibility to the service line.

Columbia has admitted in a footnote in a separate but related case that it is responsible for inspecting non-welded joints, such as the joints in an assembled riser and those that connect the riser to the service line and the meter.[9] It is this provision that is central to the gas riser leak problem in Ohio. 49 C.F.R. 192.273 "prescribes minimum requirements for joining materials in pipelines, other than by welding." Provision 49 C.F.R. 192.273(c) specifies:

> Each joint must be inspected to insure compliance with this subpart.

That directive orders operators, such as LDCs, to inspect all non-welded joints of the assembled risers along with those joints connecting the riser to the service line and to the meter. The only joints explicitly excluded from those that must be inspected are those made in the manufacturing process.[10] Therefore, COH and other Ohio LDCs have always been required to inspect all the joints of all gas risers including the Type-A or field assembled risers to prevent gas leaks.

Columbia points out that such inspection is not possible by stating that "given the configuration of Type-A risers, such an inspection would not necessarily disclose whether the riser had been correctly assembled or installed."[11] However, as part of the installation process, the installers had to make joints. An apparent inability to inspect

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[9] *Case No. 07-237*, COH Memo Contra at 3 (April 9, 2007).

[10] 49 C.F.R. § 192.271(b).

[11] *Case No. 07-237*, COH Memo Contra at 4, fn 5 (April 9, 2007).

such joints does not give Columbia or other Ohio LDCs a waiver from the USDOT requirements. Therefore, Columbia and the other Ohio LDCs should never have permitted the installation of field assembled or Type-A risers pursuant to 49 C.F.R. § 192.273(c) because those risers do not permit the inspection of joints made in assembling them. Nonetheless, COH's excuse is insufficient to justify the Company's failure to fulfill its inspection duties and responsibilities.

Moreover, the evidence that has been presented in Case No. 05-463 demonstrates without doubt that field-assembled risers are more likely to fail than factory assembled risers.[12] The USDOT has valid reasons for its rule against the installation of field-assembled risers without inspections of each and every non-welded joint in that assembly but COH and other Ohio LDCs seemingly ignored that rule, which contributed to the riser failure problem in Ohio. Columbia and other Ohio LDCs failed to completely inspect the filed-assembled risers. Due to their failure to follow the law, Columbia and the other LDCs, not their customers, should bear any costs associated with investigating and correcting the riser failure problems.

As the OCC previously stated in its Comments in Case 05-463-GA-COI, the utilities should not recover any of the alleged costs associated with remedying the riser failure problem because LDCs such as Columbia have always had the responsibility to investigate failures, check for leaks, prevent failures, and initiate programs to recondition or phase out unsatisfactory conditions or segments under the natural gas pipeline safety regulations.[13] Columbia claims that the alleged costs resulting from the investigation

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[12] *Case No. 05-463*, Staff Report at 11 (November 24, 2006).

[13] *Case No. 05-463*, OCC Comments at 20 (February 5, 2007).

ordered by the Commission is an out-of-the-ordinary expenditure compelled by the Commission. However, the USDOT has required pipeline owners and operators, such as Ohio's LDCs to investigate and replace faulty pipes under 49 C.F.R. § 192.613:

> (a) Each operator shall have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions.
>
> (b) If a segment of pipeline is determined to be in unsatisfactory condition but no immediate hazard exists, the operator shall initiate a program to recondition or phase out the segment involved, or, if the segment cannot be reconditioned or phased out, reduce the maximum allowable operating pressure in accordance with §(a) and (b).

LDCs and all other operators of pipeline facilities have had these responsibilities for many years. This provision and related provisions were first established in 1982 and last amended in 1998, so that LDCs have known about these responsibilities at least for 9 years. These previously known responsibilities are the same as those the Ohio Commission has ordered for the LDCs, such as Columbia, with regard to problems with part of the distribution system, the riser.

Additionally, 49 C.F.R. § 192.617 requires "each operator" to:

> Establish procedures for analyzing accidents and failure, including the selection of samples of the failed facility or equipment for laboratory examination, where appropriate, for the purpose of determining the causes of the failure and minimizing the possibility of a recurrence.

Despite this directive, Columbia denies that it is responsible for analyzing the failure of the gas risers, for taking samples of the failed gas risers or for laboratory examination of the failed risers.[14]

Columbia claims that because its tariff states that the customer shall own and maintain the customer service line, LDCs are somehow excused from their responsibilities under state and federal rule to find, investigate, correct, prevent leaks and "phase out" "unsatisfactory condition[s]."[15] While the tariff has been interpreted to require customers to pay for the replacement of leaking service lines after the LDC identifies them, those tariff provisions have never been held to require customers to check for leaks in their service lines, to investigate the cause of service line leaks, to investigate faulty parts or to initiate programs to phase out unsatisfactory segments or conditions.

Rather, LDCs have always been held responsible for surveying service lines, for detecting leaks, for turning off the gas when there is a leak and for initiating programs to recondition or phase out unsatisfactory segments involved. The Commission's directive to LDCs to survey for leaks has been a responsibility of LDCs for many years and thus Columbia should not be heard to argue that the costs of the Commission's directive constitute out-of-the-ordinary expenditures.

Columbia has previously attempted to deny almost all of its responsibilities for gas riser safety.[16] Columbia does admit that it is responsible for ensuring that only qualified individuals install gas risers but denies that it is responsible for maintaining a

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[14] *Case No. 07-237*, COH Memo Contra at 5.

[15] Id.

[16] *Case No. 07-237*, COH Memo Contra 3-6 (April 9, 2007).

list of qualified individuals.[17] Yet Columbia is clearly responsible for maintaining records of qualified individuals under 49 C.F.R. § 192.807. Perhaps Columbia knows of a way in which it can ensure that only qualified individuals install gas risers without providing customers with a list of qualified providers. But clearly, if Columbia chooses not to provide property owners a list of qualified individuals and a property owner hires an individual to install a gas riser who is not qualified, Columbia must be held responsible.

Finally, Columbia states that nothing in the pipeline safety regulations require LDCs to identify, remove, submit for testing, and replace hundreds of customer-owned risers; to pay for outside consultants for a statistical analysis of existing customer-owned risers; or to conduct an inventory of more than 1.4 million service locations.[18] But that is exactly what 49 C.F.R. §§ 192. 613 and 192.617, quoted above, directs all operators, including COH, to do. Those sections require operators to survey for leaks, identify problems, take appropriate action, initiate programs to phase-out or recondition unsatisfactory segments, establish procedures for analyzing failures, "including the selection of samples of the failed facility or equipment for laboratory examination, where appropriate, for the purpose of determining the causes of the failure and minimizing the possibility of a recurrence." Columbia cannot sidestep its responsibility to meet those directions under federal and state regulation. For that reason, the related expenditures are not extraordinary.

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[17] Application at 4.

[18] Application at 3-4.

Rather than seeking authority from the PUCO for an IRP Rider, or for deferrals, Columbia has available the opportunity under law to file a rate case for new rates effective November 1, 2008[19] to recover the increased costs of surveying and leak detection that may be resulting from the Commission's order, though other costs, including decreases in costs, will be contemporaneously considered. If COH does not choose to file a rate case to collect these costs, then one could surmise that COH is collecting sufficient revenues from the base rates that are currently in effect to cover their costs which include costs related to surveying, detecting, correcting, and phasing out unsatisfactory conditions. The Commission has the authority to enforce the pipeline safety rules, without granting deferral authority or an IRP Rider under its own Rule 4901:1-16-13.

B. COH's request fails to meet the requirements of R.C. § 4929.04 and is unlawful single issue ratemaking.

COH is requesting authority to collect alleged expenses related to gas risers through an IRP Rider.[20] In making this request, COH is demanding the right to recover alleged costs relating to gas risers only as a separate item apart from all other actual costs and revenues that Columbia has. Moreover, Columbia is going to this extreme length to increase rates (by at least $200 million)[21] without the benefit of full public scrutiny and Commission review. Ohio ratemaking law sets forth two specific mechanisms by which

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[19] *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Authority to Amend Filed Tariffs to Increase the Rates and Charges for Gas Service,* Fourth Amendment to Joint Stipulation and Recommendation in Case No. 94-987-GA-AIR and Second Amendment to Joint Stipulation and Recommendation in Case No. 96-113-GA-ATA and Stipulation and Recommendation in Case No. 03-1459-GA-ATA ("2003 Stipulation") filed October 9, 2003 as modified by Commission Entry on Rehearing at 6-7 (May 5, 2004).

[20] Application at 4.

[21] Id.

an LDC like Columbia can apply to increase its distribution rates. The Company can file a distribution rate case pursuant to R.C. § 4909.18 and R.C. § 4909.19 in which all of its actual revenues and costs would be reviewed -- not just those selected by Columbia -- to determine the just and reasonable nature of the Company's rates. The other option is to file an alternative regulation plan for a distribution rate service pursuant to R.C. Chapter 4929.

Although COH ostensibly claimed to make its Application under R.C. § 4929.11[22], the Application fails to meet the requirements of an alternative rate plan as set forth in R.C. § 4929.05. Because R.C. § 4929.11 falls within the scope of R.C. Chapter 4929, then it must comply with the R.C. § 4929.05 requirements before any rider can be implemented. Columbia's Application fails to meet this requirement.

Further review of COH's entire Application indicates that the Company does not even claim that this Application constitutes an alternative rate plan. Columbia does not make this claim because it cannot. Instead, the Company is attempting to obtain the benefits of an automatic rider without even attempting to meet the requirement under which an alternate rate plan (automatic rider) might be considered.

Instead of an alternative rate plan, Columbia's Application is nothing more than a request for single-issue rate relief, which is prohibited under Ohio ratemaking law and Ohio Supreme Court precedent. The Ohio Supreme Court has concluded that "adjusting only for selected changes is repugnant to the test year's theoretical roots." *Dayton Power & Light v. Public Util. Comm.* (1983), 4 Ohio St.3d 91, 106, quoting *The Use of the Future Test Year in Utility Rate-Making* (1972), 52 R.U.L.Rev. 791, 796.

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[22] Id. at 1.

A prohibition against single-issue ratemaking is a fundamental part of public-utility regulation in Ohio and throughout the entire country. Even other Ohio utilities acknowledge the single-issue ratemaking prohibition.[23] In fact, Verizon North, Inc. has correctly stated that:

> The prohibition against single-issue ratemaking is fundamental to public-utility regulation nationwide: it holds that where the legislature has established a comprehensive system for the evaluation and establishment of public utility rates, regulators may not lawfully pick and choose the issues upon which to determine rate adjustments. Instead they must employ the system in its entirety.[24]

Because of this prohibition, the Commission is precluded from authorizing a utility to raise rates to offset any unproven and alleged costs from the inventory, identification, repair or replacement of natural gas risers without a full review of all of Columbia's costs and revenues.

Moreover, although the law requires that a utility have a reasonable opportunity to recover its costs, there is no guarantee of such recovery and the law does not require that cost recovery be done in a manner dictated by the Company. Instead, R.C. § 4909.18 and § 4909.19 and R.C. Chapter 4929 specifically set forth the procedures for the Company to follow if it believes it is entitled to a rate increase.

To the extent that the Commission might accept the Application pursuant to R.C. § 4929.11, then the Commission should require a full evidentiary hearing as required by R.C. § 4929.05.

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[23] See, *In the Matter of the Commission's Investigation Into the Modification of Access Charges,* 00-127-TP-COI, Verizon North, Inc., Application for Rehearing, at 5-6 (February 3, 2003)

[24] Id.

C. COH's request would improperly enrich shareholders, requiring customers to pay for both the cost of the risers and also the return on that investment.

In its Application, COH asks the Commission to permit COH to "assume ownership of Columbia's investment in risers and customer-owned service lines as replaced" and "capitalize" its investment in their facilities "as replaced."[25] This would presumably permit COH to include this capitalized ownership value as part of the Company's rate base in its next rate case. In turn that would have the effect of increasing rate base so that when an appropriate rate of return is applied to that rate base, the larger rate base would result in a greater revenue requirement or higher rate increase.

In addition to having higher rates in the future, customers would also face the prospect of higher rates now in the form of COH's proposed IRP. COH would charge each customer the monthly IRP rider to recover the related depreciation, incremental property taxes and post-in-service carrying charges related to the investment in risers and customers-owned service lines for which COH would assume ownership. In effect, Columbia's Application would charge customers now (in the form of the IRP Rider) and also charge them later (in the form of a higher distribution rates from a return on a greater rate base).

D. The Commission has not previously authorized an IRP Rider to recover this type of infrastructure investment.

In its Application, COH claims that the Commission previously approved a special cost recovery mechanism[26] in order to recover sizeable infrastructure

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[25] Application at 7.

[26] Application at 5.

replacements in Case No. 01-1228-GA-AIR.[27] COH relies on that case as precedent for the Commission to permit COH its requested R.C. § 4929.11 automatic adjustment rider to allow the recovery for special costs here.[28] Not only is this reliance misplaced, but it is plain wrong.

First, the 01-1228-GA-AIR case was a traditional rate case proceeding that was governed by the procedural safeguards set forth in R.C. § 4909.18 and R.C. § 4909.19. R.C. § 4929.11, on the other hand is not a traditional rate case, rather it is part of the natural gas alternative ratemaking statute.[29] As such, R.C. § 4929.11 does not include the same type of procedural safeguards that enabled the parties to Case No. 01-1228-GA-AIR to reach the agreement that permitted the settlement in that case.

Second, the 01-1228-GA-AIR Case was resolved by a Stipulation and Recommendation.[30] The 01-1228-GA-AIR Case Stipulation specifically noted that:

> Except for enforcement purposes, **neither this Stipulation** nor the information and data contained therein or attached, **shall be cited as precedent in any future proceeding for or against any Party, or the Commission itself**, if the Commission approves the Stipulation and Recommendation, other than a proceeding to enforce the terms of this Stipulation.[31]

In addition to this prohibition against using the 01-1228-GA-AIR Case as precedent, it is noteworthy that no where in the 19-page document does the Stipulation and

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[27] *In the Matter of the Application of the Cincinnati Gas & Electric Company for an Increase in Rates,* Case Nos. 01-1228-GA-AIR et al., Opinion and Order (May 30, 2002) (hereinafter "Case No. 01-1228-GA-AIR").

[28] Application at 5.

[29] See R.C. Chapter 4929.

[30] 01-1228-GA-AIR Case, Stipulation and Recommendation filed April 17, 2002.

[31] Id. at 2. (Emphasis added).

Recommendation refer to the agreement as being subject to or pursuant to R.C. § 4929.11.

In addition, the Commission's May 30, 2002 Opinion and Order referred to the process resulting in the agreement as a "mini-rate case" and did not indicate that it was a R.C. § 4929.11 process.[32] More importantly, the Commission noted in the Opinion and Order that:

> As for the AMRP, the stipulation establishes a mechanism under which parties and the Commission will evaluate the reasonableness of the expenses incurred on a consistent, regular basis during the program, **unless another base rate application is filed by the company.**[33]

The fact that the Commission included the future rate case language is indicative of the Commission's desire to review this matter in the context of rate cases with their accompanying procedural safeguards, and not R.C. § 4929.11.

E. The Commission's Approval of Uncollectible Expense Riders, under R.C. § 4929.11, is not Precedent for Columbia's Application.

Although the Commission has permitted Ohio LDCs to implement automatic riders to recover uncollectible expenses, Columbia's request for an IRP Rider in this case

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[32] 01-1228-GA-AIR Case, Opinion and Order at 8, footnote 4.

[33] Id. at 8. (Emphasis added).

is totally different and distinguishable.[34] Each of the above-referenced UEX cases involve a rider to permit LDCs to collect actual uncollectible expenses that are directly related to volatile gas costs. In contrast, the riser IRP Rider would track distribution-related costs that do not have the same underlying volatility.

Moreover a review of the Commission Orders approving the UEX riders indicates that the Commission recognized the volatility of gas costs over a number of years as basis for concluding that the adjustment mechanism is just and reasonable.[35] The Commission also noted that there was no assigned blame regarding the large uncollectible expenses.[36] As noted above, there has been no such exculpation for Columbia or any LDC regarding the natural gas risers.[37]

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[34] *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of an Adjustment to its Uncollectible Expense Rider Rates,* Case No. 06-729-GA-UEX, Application (April 27, 2007); *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval of an Adjustment to its Uncollectible Expense Rider Rates,* Case No. 07-499-GA-UEX, Application (May 24, 2006); *In the Matter of the Application of Vectren Energy Delivery of Ohio for Approval of an Adjustment to its Uncollectible Expense Rider Rates,* Case No. 06-755-GA-UEX, Application (May 31, 2006); *In the Matter of the Application of Eastern Natural Gas Company for Approval of an Adjustment to its Uncollectible Expense Rider Rates,* Case No. 07-512-GA-UEX, Application (April 30, 2007); *In the Matter of the Application of Pike Natural Gas Company for Approval of an Adjustment to its Uncollectible Expense Rider Rates,* Case No. 07-513-GA-UEX, Application (April 30, 2007); *In the Matter of the Application of Ohio Gas Company Natural Gas Company for Approval of an Adjustment to its Uncollectible Expense Rider Rates,* Case No. 07-536-GA-UEX, Application (May 2, 2007).

[35] *In the Matter of the Joint Application of the East Ohio Gas Company d.b.a. Dominion East Ohio, Columbia Gas of Ohio, Vectren Energy Delivery of Ohio, Northeast Ohio Natural Gas Corp. and Oxford Natural Gas Company for Approval of an Adjustment Mechanism to Recover Uncollectible Expenses,* Case No. 03-1127-GA-UNC, Finding and Order (December 17, 2003) ("03-1127-GA-UNC Case") at 10.

[36] Id at 10-11.

[37] The Commission noted that generally speaking the large uncollectible expense was not something that the Applicants (LDCs) could have avoided altogether or extensively mitigated (03-1127-GA-UNC Case, Order at 11, footnote 9). There has been no such conclusion regarding the alleged costs associated with natural gas risers.

IV. CONCLUSION

This Application would impact residential customers, *inter alia*, through future increases in gas charges, as the Commission tends to allow utilities to collect deferrals from customers once the deferrals are booked. As set forth herein, OCC satisfies the criteria set forth in R.C. § 4903.221 and the Commission's rules, for intervention. Therefore, on behalf of all of COH's approximately 1.4 million residential gas customers, who clearly have an interest in the outcome of this case, OCC respectfully requests that the Commission grant OCC's Motion to Intervene.

Furthermore, the PUCO should deny the Application, for the reasons explained above. In the event that the Commission does not outright reject the proposals in the Application for their lack of merit, then the Commission should not consider COH's proposals unless COH submits them as part of a full rate case under R.C. § 4909.18 and R.C. § 4909.19. If the Commission is intent on proceeding with the issues in this case, then it should set the matter for a full evidentiary hearing, complete with discovery obligations and a clear burden of proof on COH.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

Joseph P. Serio, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215
(614) 466-8574 – Telephone
serio@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Office of the Ohio Consumers' Counsel's Motion to Intervene and Comments has been served upon the following parties via first class U.S. mail, postage prepaid, this 6th day of June 2007.

Joseph P. Serio
Assistant Consumers' Counsel

DUANE W. LUCKEY
Chief, Public Utilities Section
Attorney General's Office
180 East Broad Street, 12th Floor
Columbus, Ohio 43215

STEPEHN B. SEIPLE
Columbia Gas
200 Civic Center Drive
P.O. Box 117
Columbus, Ohio 43216-0017

DAVE RINEBOLT
COLLEEN MOONEY
Ohio Partners for Affordable Energy
231 West Lima Street
P.O. Box 1793
Lima, Ohio 45839-1793