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

ENTRY

The Commission finds:

(1) On April 13, 2005, the Commission initiated an investigation into the types of gas service risers being installed in Ohio, the conditions of installation, and their overall performance. *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 (COI case). As a part of the COI case, the Commission ordered the four largest local distribution companies (LDCs), including Columbia Gas of Ohio, Inc. (Columbia), to identify a sample number of installed risers and to remove a portion of those risers for submission to a testing laboratory. Staff of the Commission has filed a report in the COI case, finding that certain risers are more prone to failure than others. Staff submitted several recommendations to the Commission, currently under consideration in that docket.

(2) On April 25, 2007, Columbia filed an application in the present docket for (a) approval, under Section 4929.11, Revised Code, of tariffs designed to recover, through an automatic adjustment mechanism, costs associated with the inventory of risers that was ordered in the COI case, the replacement of customer-owned risers that are identified as prone to failure, and the replacement of customer-owned service lines that are constructed or installed by Columbia as risers or service lines are replaced and (b) accounting authority to permit capitalization of Columbia's investment in customer-owned service lines and risers through assumption of financial responsibility for these facilities and to permit deferral of related costs for subsequent recovery through the automatic adjustment mechanism.

(3) In support of its application, Columbia notes that, in its August 3, 2005, entry in the COI case, the Commission recognized that it was ordering the large LDCs to bear costs associated with the COI investigation, in light of the need to protect public safety, and indicated that it would entertain applications for accounting deferrals related to investigation costs, on a case-by-case basis. Columbia explains further that staff's recommendations in the COI case include a suggestion that operators of distribution systems should conduct inventories of their systems, in order to determine the types and locations of risers. Columbia also points out that the Chairman of the Commission requested, in a letter dated January 2, 2007, that the LDCs address the question of whether they should assume responsibility for customer-owned service lines.

(4) Columbia filed its comments in the COI case, on February 2, 2007. In those comments, it agreed with the recommendation that it conduct a riser inventory and noted that the process had begun, with an anticipated six-month time to complete and an estimated cost of $8,000,000. It also indicated that the Columbia tariffs clearly provide that its customers are responsible for maintenance, repair, and replacement of service lines, although Columbia is required to survey the facilities periodically for leakage.

(5) Columbia asserts, in its application, that the risers identified in the COI case staff report as prone to leakage or failure should be addressed "through a systematic and orderly replacement of all risers identified as prone to leakage, whether or not those risers are currently exhibiting signs of leakage." Based on statistical sampling, Columbia expects to identify up to 400,000 such risers and anticipates the replacement costs to total $200,000,000. Columbia expresses a concern that efforts by individual customers to repair or replace these risers could lead to rapid price increases and shortages of qualified technicians.

(6) Columbia proposes that, although it is not now legally responsible for the repair or replacement of customer-owned service lines, public safety concerns can best be addressed by the replacement of risers prone to leakage through a structured program designed and administered by Columbia. It therefore offers to assume responsibility for the future maintenance, repair and replacement of all service lines; to assume responsibility for

the orderly and systematic replacement, over approximately three years, of all risers identified as prone to leakage; to reimburse those customers who have replaced risers or service lines since November 24, 2006, for certain actual, reasonable costs incurred; and to assume ownership of any new risers and any service lines constructed or installed by Columbia (the proposed assumption of responsibility and the proposed repair and replacement activity will be collectively referred to as the infrastructure replacement program or IRP). The application in this case is designed to compensate Columbia for the financial impacts of the IRP, recognizing the extraordinary and nonrecurring nature of the expenses incurred and the varying level of the expenses from month to month.

(7) On April 30, 2007, Ohio Partners for Affordable Energy (OPAE) moved to intervene, noting that its "concern is . . . with the method of recovery in light of the overall rates paid by [Columbia] customers." Further, OPAE notes in its reply to Columbia's memorandum contra its motion to intervene, *inter alia*, that Columbia has not established that its current base rates fail to provide adequate resources to deal with the riser issues and that Columbia has some level of responsibility for the risers. OPAE emphasizes its belief that cost recovery should only be considered in the context of a full base rate case.

(8) On June 6, 2007, the office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene and comments. In those comments, OCC submits that "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." OCC is concerned, *inter alia*, that Columbia has not documented the costs it claims, has not proved that it is not already financially responsible for riser facilities, and has failed to meet statutory requirements for increasing rates.

(9) A motion to intervene was also filed, on June 8, 2007, by Utility Service Partners, Inc. (USP). According to its motion, USP is a provider of natural gas service line warranties. It explains that, in exchange for a monthly fee, USP bears the risk of all service line repairs, including the riser, and arranges for plumbing contractors to make repairs or replacements of service-line breaks or leaks. USP argues that it "has thousands of contracts

with natural gas service line customers in Ohio which would be adversely affected if the public utility were to take over such customer service lines." USP suggests that the application "should be bifurcated into two proceedings. The first should deal with any relief Columbia believes is necessary to meet immediate safety needs." The second, according to USP, would deal with the remainder of the proposal.

(10) By letter dated June 12, 2007, the Ohio Council of Urban Leagues (OCUL) expressed its interest in fairly and expeditiously resolving the safety concerns related to natural gas risers. Similarly, in a letter dated June 18, 2007, the Ohio Conference of the National Association for the Advancement of Colored People (NAACP) supported Columbia's proposal. Both the OCUL and the NAACP explain that Columbia's proposal will assist with the economic impact of repairs. They suggest that the proposal would protect all customers, regardless of their economic status. The OCUL and the NAACP state that Columbia's proposal appears to be the best method for increasing public safety statewide and eliminating an immediate financial burden on customers, as well as for placing responsibility for future maintenance issues on the utility.

(11) A third motion to intervene was filed on June 26, 2007, by Interstate Gas Supply, Inc. (IGS). IGS explains its interest in the proceeding, stating that it, through its affiliate, Manchester Group, LLC (Manchester), offers warranties of gas lines, including outside gas lines throughout Ohio. IGS points out that Manchester's business will be impacted by the outcome of this proceeding.

(12) Columbia has not objected to any of these three motions to intervene. Section 4903.221, Revised Code, requires the Commission, in its consideration of motions to intervene, to take into account, *inter alia*, the nature and extent of a prospective intervenor's interest. Rule 4901-1-11, Ohio Administrative Code (O.A.C.), also states that a person shall be permitted to intervene upon a showing that such person "has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties." The Commission finds that OCC, OPAE, and USP have all met

the requirements for intervention. The motions will be granted. The Commission will also grant OPAE's motion to permit David C. Rinebolt to practice *pro hac vice* before the Commission in this proceeding.

(13) A motion to intervene was also filed, on July 2, 2007, by Industrial Energy Users-Ohio (IEU). IEU, an association of ultimate customers that work together to address matters affecting the availability and price of utility services, explains that its members purchase substantial amounts of natural gas under tariffs from which Columbia proposes to recover IRP costs. Under the provisions of Rule 4901-1-12, O.A.C., Columbia's time for responding to this motion has not yet expired. Therefore, we are not now ruling on IEU's motion.

(14) While the Commission's consideration of the application in this case is ongoing, the Commission also recognizes that, in light of the attendant public safety concerns, it is important not to delay unnecessarily actions designed to promote public safety. Therefore, we believe that a bifurcation of the proceeding is appropriate. As described previously, the application includes Columbia's proposal for the IRP. The application also includes financial aspects, requesting approval of a rider to recover the costs of the IRP, accounting authority to permit capitalization of Columbia's investment on service lines and risers, and accounting authority to allow deferral of related costs for subsequent recovery through the IRP rider. The Commission finds that, in order to safeguard the public and ensure that appropriate identification and repair of facilities will occur in the most expeditious manner possible, we should immediately consider Columbia's proposal to initiate the IRP.

(15) As pointed out in Columbia's comments in the COI case, its tariff currently provides that the customer is the owner of, and responsible for repairs to, the customer service line. Thus, the proposed changes in responsibility for repair of lines and risers would require modification of Columbia's tariff, even though the application in this case is, on its face, a request for approval of an automatic adjustment clause and for approval of accounting charges. As Columbia now expressly excludes, from the services it offers, the repair of service lines and risers, the application proposes a service not previously offered by Columbia and proposes the use of new equipment.

(16) Section 4909.18, Revised Code, provides that, where an application proposes a new service or the use of new equipment, or proposes the establishment or amendment of a regulation, and is not for an increase in any rate or charge, the Commission must set the matter for hearing only if it finds that the proposals may be unjust or unreasonable. The Commission has previously held and the Supreme Court of Ohio has affirmed that, where a proposed tariff amendment proposes a new service, it is, as a matter of law, not for an increase in rates. *Cookson Pottery v. Pub. Util. Comm.*, 161 Ohio St. 498 (1954); *City of Cleveland v. Pub. Util. Comm.*, 67 Ohio St.2d 446 (1981); *In the Matter of the Application of Southeastern Natural Gas Company for Authority to Amend its Tariffs to Establish New Services, Make Amendments to the Terms of Other Tariffs, and to Make Certain Housekeeping Corrections*, Case No. 06-1251-GA-ATA, Entry (November 21, 2006). Therefore, our determination, at this juncture, must be whether the proposal to undertake the IRP may be unjust or unreasonable. If it is not, then no hearing is required for this phase of our consideration.

(17) We would first note that, while both OCC and OPAE express concerns regarding the proposed IRP rider and the means for considering that rider, neither OCC nor OPAE describe any issues regarding the proposed IRP itself. USP and IGS, however, do.

(18) USP, in its comments, asserts that current rules and tariffs already make Columbia responsible for leak inspections. It suggests that the Commission direct Columbia to assemble a list of qualified plumbers and contractors to assist with any necessary repairs. USP asserts that the IRP proposal "does not seem to be a logical solution to a limited safety problem." USP describes Columbia's application as a conversion "to a socialized cost structure in which all customers – owners and renters alike – contribute pro rata to the cost of maintaining service lines." It argues that the benefits of the IRP would be discrete to each individual customer, but the proposed costs would be borne by all customers. It also points out that service lines for new installations, buried house lines (from a meter near the street to a house), accounting, and right-of-way issues are not addressed in the proposal.

(19) We disagree with USP insofar as there are immediate public safety concerns. In comparing the benefits and costs of the

proposal, USP treats the repair of a leaking or potentially leaking riser or line as one that benefits only an individual customer. We see the situation differently. The public at large has a vested interest in knowing that the gas system as a whole is safe – their friends' and neighbors' homes as well as their own. Thus, while there are certain limited advantages to each individual customer making individual repairs where safety is not an immediate concern, we find that the public benefits of a safe gas system outweigh any individualized benefits and cause an IRP that addresses immediate public safety concerns to be not unreasonable. With the responsibility not only for inspecting the entire system but, also, the responsibility for repairing hazardous conditions, Columbia can ensure the safety of all service lines and risers. Further, with Columbia responsible for the replacement of risers that are considered prone to failure, members of the public need not be concerned that an individual customer has taken a risk that the rest of the public might choose not to bear.

(20) USP is correct, however, that Columbia's proposal has not addressed all related issues, including but not limited to those mentioned by USP in its comments. We are not, in this entry, resolving such issues. Such issues may be addressed subsequently in this docket.

(21) In its comments, filed as a part of the memorandum in support of the motion to intervene, IGS suggests that Columbia's proposal would eliminate other efforts to assist in the repair and replacement of risers and lines. IGS requests that the Commission make it clear that consumers may proactively repair or replace affected risers without risking loss of recovery through a later-approved socialized program for costs. Even after Commission approval, IGS submits that customers should be permitted to repair risers and recover the costs from Columbia. IGS proposes that the Commission set a specific amount, such as $500, that each customer may recover, following demonstration that an affected line has been replaced or repaired.

(22) We agree with IGS to the extent that a customer, having repaired or replaced a riser prone to failure or an associated service line, prior to our approval of Columbia's IRP and since November 24, 2006, when the staff report was issued, should be reimbursed by

Columbia for those costs, up to a reasonable limit. Such customers should not be penalized for their diligence. However, we disagree that customers should be encouraged, through a reimbursement program, to continue to take upon themselves the responsibility to determine whether they have an affected riser and to repair the problem. We believe that this is a system-wide issue and is best handled by transferring the responsibility to Columbia on a system-wide basis. Therefore, we will not require Columbia to reimburse customers for repairs made after our approval of the IRP.

(23) We are cognizant of the tremendous public safety issues related to potential riser failures and serious leaks in service lines. Considering the public interests involved, the information in the application and the comments filed in the docket, we find that the proposal to initiate the IRP is not unjust or unreasonable, to the extent of repairs to, or replacement of, risers identified as prone to failure or service lines with hazardous leaks. Therefore, we will approve (a) Columbia's assumption of responsibility for future repair and replacement of service lines (up to the meter) and risers where those service lines or risers are actually leaking and those leaks are determined by Columbia to be hazardous; Columbia's replacement, in an orderly and systematic method over a period of approximately three years, of all risers prone to failure, as so identified in the staff report filed on November 24, 2006, in the COI case; Columbia's reimbursement, within a reasonable period after submission of appropriate documentation, of those customers who have replaced risers or service lines since November 24, 2006, for actual, reasonable costs incurred, with the maximum reimbursement for the replacement of a riser being $500 and with the maximum reimbursement for the replacement of a customer service line being $1,000; and Columbia's assumption of appropriate rights and responsibilities related to any new risers and service lines as those risers or service lines are replaced or as reimbursement for replacements are paid and (b) accounting authority for the deferral of costs related to Columbia's inventory of risers and related to the approved changes in responsibility, as well as the replacement of risers prone to failure. We are, however, making no determination at this time regarding the justness or reasonableness of, or our possible approval of, tariffs to recover, through an automatic adjustment mechanism or otherwise, costs associated with the Commission-ordered riser inventory and

identification process or with Columbia's replacement or repair of service lines or risers. Thus, we are at this time neither granting nor denying Columbia's application under Section 4929.11, Revised Code. We are also making no determination at this time regarding Columbia's request for accounting authority to permit capitalization of Columbia's investment in service lines and risers, regarding responsibility for the need to repair risers, regarding the appropriate process for the remainder of this proceeding, or regarding any of the other issues mentioned by the parties as not being addressed by Columbia's proposal. Additionally, we are making no determination at this time with regard to Columbia's offer to assume responsibility for additional risers and service lines beyond those that Columbia is specifically authorized by this entry to repair or replace based on the need to address immediate safety issues. In light of the matters not yet determined, Columbia shall maintain separate accounting for the costs incurred pursuant to this order, such that all such items can be subsequently tracked.

(24) Columbia shall work with staff of the Commission to develop appropriate modifications of its tariffs, to reflect the determinations made in this entry. The modified tariffs should detail all of the terms and conditions of the IRP, which may include the methodology by which service line leaks will be identified, differential treatment of different grades of leaks, testing and certification of results, staffing of repair work, time for reimbursement of customer repairs, a definition of "hazardous" for purposes of determining what leaks need to be repaired as discussed in finding (23), a more specific definition of Columbia's rights and responsibilities, and other matters deemed appropriate by staff and Columbia. Such modified tariffs shall be filed for Commission approval.

(25) Columbia shall also work with staff to develop a procedure for notifying customers of the availability of the reimbursement.

(26) Columbia is also directed to work with staff of the Commission to develop an appropriate plan for the orderly and systematic replacement of risers considered prone to failure. In performing the repairs authorized in this entry, Columbia will be responsible to ensure that all work complies with all federal and state laws and regulations. In performing these repairs, Columbia should also, to the extent not using its own

employees, develop a list of contractors qualified to participate in the repairs, which list should include qualified entities that have been in the business of offering gas line warranty and repair services. Columbia shall also keep staff informed as to the ongoing results of its riser inventory, its survey of necessary repairs, and its actual repair activities.

(27) Issues not resolved in this entry may be considered subsequently in this docket. The Commission notes that Section 4929.11, Revised Code, under which Columbia's application was filed, merely provides that automatic adjustment mechanisms or devices may be allowed by the Commission. Therefore, the attorney examiner shall determine the appropriate procedures to be followed in this case and may issue any necessary orders to effectuate those determinations.

It is, therefore,

ORDERED, That motions to intervene, filed by OCC, OPAE, USP, and IGS, be granted. It is, further,

ORDERED, That the motion by OPAE to allow David C. Rinebolt to practice *pro hac vice* be granted. It is, further,

ORDERED, That Columbia's application be granted in part and deferred in part, as set forth in this entry. It is, further,

ORDERED, That Columbia shall file modified tariffs for approval, as set forth in this entry. It is, further,

ORDERED, That Columbia shall work with staff, as discussed in this entry.

ORDERED, That a copy of this entry be served upon parties of record in this proceeding.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Paul A. Centolella

Ronda Hartman Fergus

Valerie A. Lemmie

Donald L. Mason

JWK;geb

Entered in the Journal

JUL 11 2007

Reneé J. Jenkins
Secretary