

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbia)
Gas of Ohio, Inc. for Approval to Implement) Case No. 11-5351-GA-UNC
a Capital Expenditure Program.)

In the Matter of the Application of Columbia)
Gas of Ohio, Inc. for Approval to Change) Case No. 11-5352-GA-AAM
Accounting Methods.)

ENTRY

The attorney examiner finds:

- (1) Columbia Gas of Ohio, Inc. (Columbia) is a public utility as defined in Section 4905.02, Revised Code, and a natural gas company under Section 4905.03(A)(5), Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On October 3, 2011, Columbia filed an application for authority to implement a capital expenditure program for the period of October 1, 2011, through December 31, 2012, pursuant to Sections 4909.18 and 4929.111, Revised Code. Additionally, Columbia seeks approval to modify its accounting procedures to provide for capitalization of post-in-service carrying costs on those assets of the capital expenditure program that are placed into service but not reflected in rates as plant in service, as well as deferral of depreciation expense and property taxes directly attributable to those assets of the capital expenditure program that are placed into service but not reflected in rates as plant in service. According to the application, a cumulative investment of \$76 million is projected for Columbia's capital expenditure program. Columbia states that it is not requesting cost recovery as part of this application and that recovery of any approved deferrals will be requested in a separate proceeding. Columbia submits that approval of the application will not result in an increase in any rate or charge, and, therefore, that the application should be considered as an application not for an increase in rates under Section 4909.18, Revised Code.
- (3) On October 12, 2011, the Ohio Consumers' Counsel (OCC) filed a motion to intervene in these cases. In support of its motion, OCC states that it represents the residential utility customers of

Columbia and that these cases may adversely affect such customers' interests. OCC further submits that its participation will not unduly prolong or delay the proceedings and that its advocacy will significantly contribute to the full development and equitable resolution of the issues. No party opposed OCC's motion. The attorney examiner finds that OCC's motion to intervene is reasonable and should be granted.

- (4) On October 18, 2011, Ohio Partners for Affordable Energy (OPAE) filed a motion to intervene in these cases. In support of its motion, OPAE asserts that it is a nonprofit organization with a stated purpose of advocating for affordable energy policies for low and moderate income Ohioans, and that it provides energy assistance to low income customers of Columbia. Some of OPAE's member agencies are also customers of Columbia. OPAE asserts that the interests of its members may be directly impacted by these proceedings. Further, OPAE asserts that its participation will not cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and expeditious resolution of these matters. No memorandum contra was filed in opposition to OPAE's motion. Accordingly, the attorney examiner finds that OPAE's motion to intervene is reasonable and should be granted.
- (5) In order to assist the Commission in its review of Columbia's application, the attorney examiner finds that the following procedural schedule should be established:
 - (a) February 10, 2012 - Deadline for the filing of motions to intervene.
 - (b) February 17, 2012 - Deadline for the filing of comments on the application by Staff and intervenors.
 - (c) February 27, 2012 - Deadline for all parties to file reply comments.
- (6) On December 19, 2011, Columbia filed a motion to stay discovery. Columbia states that, although the Commission has not established a procedural schedule, OCC has served interrogatories and requests for production of documents on Columbia. Columbia asserts that discovery is improper and

premature, given that the Commission has not determined the nature or scope of any future proceedings in these matters. Specifically, Columbia submits that, if the Commission determines that a hearing in this case is unnecessary, discovery should be permanently stayed. Columbia argues that, without guidance from the Commission as to how it will proceed, it is impossible to know whether OCC's discovery requests are relevant or likely to lead to the discovery of admissible evidence. Further, Columbia contends that the mere filing of an application does not result in a right to discovery.

- (7) On January 3, 2012, OCC filed a memorandum contra Columbia's motion to stay discovery. OCC argues that Section 4903.082, Revised Code, requires ample rights of discovery and that Rule 4901-1-17, Ohio Administrative Code (O.A.C.), provides that discovery may begin immediately after a proceeding is commenced. OCC asserts that discovery is a necessary part of the analysis that it must undertake in order to evaluate Columbia's application. OCC adds that it has served two sets of discovery on Columbia and that Columbia responded to the first set without objection. OCC contends that Columbia should not be permitted to decide unilaterally that a proceeding does not require discovery once the discovery process has already begun.
- (8) Upon consideration of Columbia's motion to stay discovery, the attorney examiner finds that, although the Commission will determine what further process may be necessary following the receipt of the comments and reply comments, the parties should be permitted to continue the discovery process. Section 4903.082, Revised Code, requires the Commission to ensure ample rights of discovery, while Rule 4901-1-17(A), O.A.C., generally provides that discovery may begin immediately after a proceeding is commenced and should be completed as expeditiously as possible. The discovery process will aid the parties in the preparation of their comments and reply comments in these cases and, ultimately, better inform the Commission's review of the application. However, the attorney examiner notes that discovery should not reach beyond these proceedings and must be limited to the subject matter of the application before the Commission. Accordingly, the attorney examiner finds that Columbia's motion to stay

discovery should be denied. For discovery requests that have already been served on Columbia, Columbia shall have 10 days from the date of this entry to serve its discovery responses.

It is, therefore,

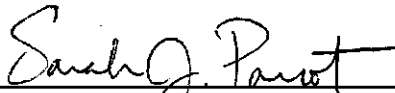
ORDERED, That the motions to intervene filed by OCC and OPAE be granted. It is, further,

ORDERED, That the procedural schedule set forth in finding (5) be adopted. It is, further,

ORDERED, That Columbia's motion to stay discovery be denied. It is, further,

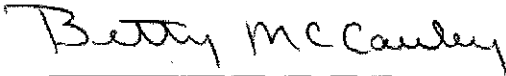
ORDERED, That a copy of this entry be served upon all parties and other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Sarah J. Parrot
Attorney Examiner

CHP/sc

Entered in the Journal
JAN 27 2012



Betty McCauley
Secretary