

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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

**INITIAL COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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I. INTRODUCTION

On October 3, 2011, Columbia Gas of Ohio, Inc. (“Columbia” or “the Company”) filed an Application for an estimated \$76 million Capital Expenditure Program (“CEP”), a program that could ultimately result in rate increases for Ohio customers.¹ The Application was the first CEP Application filed by a Local Distribution Company (“LDC”) pursuant to R.C. 4909.18 and 4929.111. The CEP Application was for an Alternative Regulation case not for an increase in rates for the period October 1, 2011 through December 31, 2012.² Among the various cost categories listed in the Application are: Replacement/Public Improvement/Betterment, Acquisitions, Growth, Support Services, Information Technology, and Distribution Integrity Management Plan Implementation.³ Specifically, the Application requests authority to modify accounting

¹ Columbia Application at Attachment A.

² Columbia Application at 1.

³ Columbia Application at 3-4.

procedures in order to capitalize and defer as a regulatory asset Post-In-Service Carrying Costs (“PISCC”), depreciation expense and property taxes on all investment in the CEP.⁴

On October 12, 2011, the Office of the Ohio Consumers’ Counsel (“OCC”) filed a Motion to Intervene in these cases. On October 18, 2011, the Ohio Partners for Affordable Energy (“OPAE”) filed a Motion to Intervene. OCC submitted an initial set of discovery on Columbia on October 21, 2011. Columbia responded to those questions on November 10, 15, and 17, 2011. On November 28, 2011, OCC served a second follow-up set of discovery on Columbia. Columbia filed a Motion to Stay Discovery on December 19, 2011.

OCC filed a Memorandum Contra the Motion to Stay Discovery on January 3, 2012. On January 27, 2012, the Attorney Examiner issued an Entry that granted the OCC and OPAE Motions to Intervene, and also ordered Columbia to respond to the OCC second set of discovery by February 6, 2012.⁵ The Entry indicated that the Public Utilities Commission of Ohio (“Commission” or “PUCO”) would determine any additional process following the receipt of Comments, but that discovery should continue. The Entry also established a procedural schedule for Initial Comments (due February 17, 2012) and Reply Comments (due February 27, 2012). OCC is submitting these Initial Comments pursuant to that schedule.

⁴ Columbia Application at 6.

⁵ See, Entry (January 27, 2012) at 3.

II. COMMENTS

Columbia's CEP Application is made pursuant to R.C. 4929.111.⁶ Accordingly, R.C. 4929.111 specifically requires the following:

(C) If the commission finds that the **capital expenditure program is consistent with the natural gas company's obligation under section 4905.22** of the Revised Code to furnish **necessary and adequate services and facilities**, which services and facilities the commission finds to **be just and reasonable**, the commission shall approve the application.⁷

R.C. 4905.22 states that:

Every public utility shall furnish necessary and adequate service and facilities, and every public utility shall furnish and provide with respect to its business such instrumentalities and facilities, as are adequate **and in all respects just and reasonable**.⁸

The Application is also made pursuant to R.C. 4909.18,⁹ which specifically states:

the burden of proof to show that the proposals in the application are just and reasonable **shall be upon the public utility**.¹⁰

Thus, the Company has the burden to prove that its CEP Application is consistent with Columbia's obligation to serve customers and is for services and facilities that are necessary and adequate and in all such respects are just and reasonable for serving customers, before any deferral authority is granted.

In response to this clear burden of proof, Columbia's Application provides minimal explanation for the estimated \$76 million in total spending and the accompanying documentation is limited to a single one-page Attachment containing

⁶ Columbia Application at 1.

⁷ R.C. 4929.111(C). (Emphasis added).

⁸ R.C. 4905.22. (Emphasis added).

⁹ Columbia Application at 1.

¹⁰ R.C. 4909.18. (Emphasis added).

insufficient data.¹¹ It is impossible to determine whether the spending under the CEP being requested is to provide “necessary and adequate services and facilities” from the scant data provided.

Moreover, Columbia filed no supporting testimony with its Application, which may have provided some explanation or support for the Application. Although any final determination as to the used and useful¹² nature of the spending under the CEP will not be made until some future rate case, Columbia does have the obligation in this case to demonstrate that the spending will be for services and facilities that are “necessary and adequate,” as well as “just and reasonable” for serving customers.¹³ Columbia has failed to meet this minimum requirement and thus its Application should be rejected.

For example, Columbia listed Information Technology totaling \$8 million in its Application.¹⁴ Although R.C. 4929.111 does list Information Technology as a permissible category for cost deferral, the specific Information Technology cost deferral sought should have a direct impact on Columbia’s ability to furnish necessary and adequate services and facilities. The Company should only be permitted to defer Informational Technology costs after a showing that the Informational Technology costs at issue provide necessary and adequate service to customers consistent with R.C. 4905.22. In its current form, the CEP Application fails to meet the burden of proof.

Moreover, it is worth noting that these deferrals for capital spending are in addition to the hundreds of millions of dollars in the various Infrastructure Replacement

¹¹ See Columbia Application at Attachment A.

¹² See R.C. 4909.15.

¹³ See R.C. 4929.111, 4905.22, and 4909.18.

¹⁴ Columbia Application at Attachment A.

Programs that Columbia and the other large LDCs currently have in place. However, while the Accelerated Pipeline Replacement Programs are limited to actual safety-related spending, there is no such limitation in Columbia's CEP request. Indeed, the Company acknowledged that every capital dollar the Company will spend during the period October 1, 2011 through December 31, 2012 (excepting expenditures on the existing Infrastructure Replacement Program ("IRP") and Standard Service Offer ("SSO") riders) is included in its requested CEP upon which the deferrals will be calculated.¹⁵ Yet these CEP deferral requests, which are not safety related have less documentary support than the IRP cases.

R.C. 4929.111 permits the PUCO to authorize deferrals only on the capital expenditure amounts set forth in the CEP Application.¹⁶ The statute indicates that the Application "shall specify the total cost of the capital expenditure program."¹⁷ This required specificity should be put into the context of recent expenditures to ensure that the spending is appropriate and necessary. It is important to review the magnitude of the capital expenditures and the associated deferral amounts to determine if the amounts requested are consistent with other levels of Company spending, as one measure of their reasonableness. Otherwise, the Company could arbitrarily request any amount without regard to whether the request is just and reasonable as required by R.C. 4929.111.

A review of the Columbia Application reveals that there is virtually no explanation for dollar amounts requested. For example, the PUCO could consider a comparison to similar Company spending in other time periods in order to be able to

¹⁵ See Attached copy of Columbia Response to OCC Interrogatory No. 5.

¹⁶ R.C. 4929.111(C).

¹⁷ R.C. 4929.111(B).

develop a baseline that may be helpful in determining if the amounts themselves are reasonable. Instead, Columbia merely listed seven items with dollar amounts.¹⁸

The PUCO should reject Columbia's CEP Application. And the PUCO should act to ensure that the following issues are addressed.

A. Revenue Generated from Plant Related to Growth and Acquisitions Should be Included in any Deferral Calculation.

A significant portion (\$25 million) of the total estimated CEP spending, almost one-third of Columbia's total estimated CEP Application (\$76 million), is for "Growth" spending.¹⁹ Columbia described this growth-related category as being for service to **new customers** or to provide **increased load capacity** to existing customers.²⁰ In either case, additional revenue will be generated by the increased spending level for growth-related capital expenditures. The increased revenues should be recognized and used to offset the deferral costs.

Columbia also included an "Acquisition of Assets" category, although no specific dollar spending was assigned to this category.²¹ This category is described by Columbia as costs associated with purchasing gas transmission, distribution, or storage facilities.²² Thus by Columbia's own definition, either growth-related spending on plant or acquisition of additional assets should bring with it new or additional revenues related to those plant categories.

¹⁸ Columbia Application at Attachment A.

¹⁹ Columbia Application at Attachment A.

²⁰ Columbia Application at 3. (Emphasis added).

²¹ Columbia Application at Attachment A.

²² Columbia Application at 3.

When asked about the new or additional revenues from these plant categories, Columbia acknowledged that plant in its “Growth” category would produce revenues.²³ Despite admitting the generation of new revenues, Columbia’s Application does not recognize any of these additional revenues and fails to credit them against the regulatory asset that will be created for PISCC, deferred depreciation and deferred property taxes. As these Growth and Acquisition Assets are put into service, they will generate revenues that were heretofore not reflected on the Company’s books. Hence the Company should be required to credit revenues received from such plant to the regulatory asset accounts that are established for PISCC, deferred depreciation and deferred property taxes. This is because the customers will pay for the assets through rates and at that time they should also get the benefit of the revenues. During the deferral period, however, under the Company’s Application, the Company will defer and collect from customers the costs associated with PISCC, depreciation and property taxes but retain the additional revenues. Because customers will ultimately be paying for the deferrals they should also be the beneficiary of the revenues during the time these costs are being deferred.

At a minimum, in order to account for the revenues the Company should set up a regulatory liability account in order balance revenues and expenditures. This is important, given that Columbia is essentially asking for all capital expenditures other than what is covered by their infrastructure replacement riders. If the Company does not recognize and credit the revenues (which would benefit customers), then the Company should also not be allowed to defer the costs (which likely will increase charges to customers) associated with capital expenditures tied to growth and acquisition. OCC

²³ See Attached copy of Columbia Response to OCC Interrogatory No. 22.

recommends that there should be a matching of benefits (revenues) and costs, so that either both are recognized in a future rate case or neither is recognized. This is consistent with the principle of matching revenues and expenses in the accounting industry.

B. Post-In-Service Carrying Charges (“PISCC”) Should be Applied to Gross Plant Balances.

PISCC is carrying charges allowed to be booked after the time plant is placed in service until it is recovered through rates. Columbia has indicated that all PISCC projections are calculated on gross plant additions that are not net of retirements and accumulated depreciation.²⁴ Columbia also noted that the reason for doing so is to recognize the additional carrying costs incurred by Columbia on these projects.²⁵ Columbia also acknowledged that the plant balances upon which property tax is calculated were not net of retirements and accumulated depreciation.²⁶

However, the Company did indicate that the deferred property taxes will be computed net of retirements when the actual amounts are eventually calculated.²⁷ Columbia is not calculating its PISCC net of retirements and depreciation. Both PISCC and property taxes should be calculated on a “net” basis in order to avoid potential over-recovery. The PUCO adopted this very standard in the first Accelerated Mains Replacement Program “(AMRP)” case.²⁸ If the Company is allowed to calculate PISCC on gross plant, it will over-recover because it will be applying PISCC to plant balances

²⁴ See Attached copy of Columbia Response to OCC Interrogatory No. 73.

²⁵ See Attached copy of Columbia Response to OCC Interrogatory No. 74.

²⁶ See Attached copy of Columbia Response to OCC Interrogatory No. 75.

²⁷ See Attached copy of Columbia Response to OCC Interrogatory No. 76.

²⁸ *In the Matter of the Application of the Cincinnati Gas & Electric Company for an Increase in Gas Rates for its Service Area*, Case No. 01-1228-GA-AIR, Supplemental Direct Testimony of Lee T. Howe (February 28, 2003) at 2; Stipulation and Recommendation (April 17, 2002) at 8 which was approved by the PUCO, Opinion and Order (May 30, 2002).

that are too high. Gross plant will have not been reduced to recognize accumulated depreciation or to recognize plant that has been retired and is therefore no longer used and useful.

In addition, OCC recommends that the Company should be required to adhere to a strict retirement program to avoid new plant being considered used and useful while the accounting process for retiring old plant takes an unreasonable amount of time to recognize such retirements to net against the new plant. This would ensure that any balances for new plant are timely adjusted for the corresponding retirements so that customers do not continue to pay for retired plant because it not has been removed from the books.

C. Potential for Double Recovery of the Deferred PISCC, Depreciation and Property Taxes

The Company's CEP Application contains several categories of plant that on its face, fall into the same category as plant that is currently being recovered through its IRP or its Automated Meter Reading Devices ("AMRD) programs.²⁹ For example, mains and service lines are mentioned under the Replacement/Public Improvement/Betterment category on page 2 of the Company's Application in this case. There is no explanation as to why these items should be included in the CEP requested in this proceeding and not under the IRP case and there is no indication that these items are not included in both. The PUCO should ensure that there is an accounting mechanism in place to separate the IRP plant balances from the CEP plant balances. Doing so will ensure that PISCC, depreciation and property taxes are calculated on the appropriate amounts. Absent such a

²⁹ *In the Matter of the Annual Application of Columbia Gas of Ohio, Inc. for an Adjustment to Rider IRP and Rider DSM Rates*, Case No. 11-5803-GA-RDR.

separation, there is a possibility for an overlap in plant balances, which could result in a double recovery of those dollars from customers.

The Replacement/Public Improvement/Betterment category also includes wells, well and field lines, and gathering lines -- natural gas production-related items which ordinarily are not included in PUCO jurisdictional rates. The Replacement/Public Improvement/Betterment category also includes base gas that is noteworthy inasmuch as Columbia does not own any storage facilities. Finally, the Replacement/Public Improvement/Betterment category includes meters, meter sets, and AMR devices that appear to be a duplication of the Columbia AMRD program. Absent a justification as to why deferred costs on these items are appropriate for collection from jurisdictional customers, the PUCO should exclude them, or at least commit its Staff to auditing them in the next rate case.

Under Support Services, Columbia's Application includes "environmental remediation at company-owned facilities."³⁰ Yet at the same time that the Company is making this claim, the Company is also simultaneously seeking deferral of environmental remediation costs in Case No. 08-606-GA-AAM. Based on the CEP Application it is impossible to distinguish between the environmental remediation costs under the CEP Application and those in the 08-606-GA-AAM filing. Thus, the potential for double recovery of environmental remediation costs exists. Absent clarification that no double recovery from customers will occur, the PUCO should reject any deferrals associated with environmental remediation costs in this Application, or at least commit its Staff to auditing them in the next rate case.

³⁰ Columbia Application at 3.

D. Certain Plant Considered as Capital Expenditures Should be Considered Operations and Maintenance Expense instead of Capital Expenditures.

Columbia uses blanket work orders for installation of property.³¹ Some of these installations may be of a repetitive nature or may take less than a day to complete. As a result, it is unknown whether any of these items are for leak repair or to maintain service. The potential exists that some of these items should not be part of the plant considered as capital expenditures, but instead should be expensed as general Operation and Maintenance (“O&M”) expenses, and excluded from the CEP. The CEP Application fails to explain why it is appropriate to categorize these cost items as capital expenditures instead of ordinary O&M Expenses. Absent such an explanation, the PUCO should exclude these items from the CEP.

E. Plant Must be Necessary and Adequate and in Use to be Eligible for Deferral.

The capitalization of PISCC and deferral of depreciation and property taxes should not begin unless and until the Capital Expenditure is necessary and adequate and actually in use providing service to customers.³² The capital expenditure must actually be in operation providing service to customers as opposed to simply being purchased or built and not yet in use providing service. The Commission should require the Company to provide evidence that the facilities on which it seeks to recover PISCC and depreciation and property tax deferrals are in actual use.³³ Absent such a showing, the PUCO should exclude capitalization of PISCC and deferral of depreciation and property taxes.

³¹ See Attached copy of Columbia Response to OCC Interrogatory No. 8.

³² R.C. 4929.111 and R.C. 4905.22.

³³ R.C. 4929.111 and R.C. 4905.22.

F. Capital Expenditure Deferrals Must have Some Time Limit.

The capitalization of PISCC and deferral of depreciation and property taxes should cease when the costs are reflected in rates. OCC suggests the date of new base rates going into effect or December 31, 2014³⁴, whichever date comes first as a reasonable time limit for the deferrals to accrue so that they do not grow to unreasonable levels. Allowing the deferral to grow without a time table for recovery will result in a significantly larger potential future rate increase to customers due to the continued accrual of carrying charges.

III. CONCLUSION

Columbia's Application is the first Capital Expenditure Application by a Local Distribution Company filed pursuant to R.C. 4929.111. As such there is no past history on the process for such a case. Thus, it is critical that the PUCO act to ensure that the proper standards and procedures are established. Moreover, it is clear that pursuant to R.C. 4929.111, 4905.22 and 4909.18 the Company has the burden to prove that its CEP Application is consistent with Columbia's obligation to serve and for services and facilities that are necessary and adequate and in all such respects are just and reasonable. Columbia's Application fails to meet this burden of proof and the PUCO should reject the Application.

In the alternative, if the PUCO does not reject the CEP Application for lack of the requisite burden of proof, sufficient safeguards need to be put in place to ensure there is

³⁴ Columbia's most recent rate case, Case No. 08-0072-GA-AIR went into effect in early 2009, and included an Infrastructure Replacement Program that was authorized for five years. That five year authorization only runs through 2014.

no double recovery between the CEP and Columbia's IRP and AMR programs. The Commission should also make sure that new and incremental revenues are properly accounted for and matched with their underlying deferred costs. And OCC recommends that PISCC should be applied to gross plant balances in order to prevent any over-recovery. The PUCO should require that appropriate expenditures be considered O&M expenses rather than Capital Expenditures. Finally, OCC recommends that the PUCO limit any CEP deferrals for some set period of time to ensure that the deferrals do not grow to unreasonable levels due to the continued accrual of carrying charges. OCC recommends that the PUCO implement the safeguards discussed above to ensure that customers pay no more for deferrals under the CEP than necessary to furnish adequate services and facilities for the provision of utility service.

Respectfully submitted,

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INTERIM CONSUMERS' COUNSEL

/s/ Joseph P. Serio _____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Initial Comments* was served via electronic service to the persons listed below on this 17th day of February 2012.

/s/ Joseph P. Serio _____

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PUCO Case No. 11-5351-GA-UNC
11-5352-GA-AAM
OCC Interrogatory No. 5
Respondent: Larry W. Martin

COLUMBIA GAS OF OHIO, INC.
RESPONSE TO OCC'S FIRST SET OF DISCOVERY
DATED OCTOBER 21, 2011

Interrogatory No. 5:

Regarding Paragraph Nos. 4 and 5 of the Application, will every capital dollar the Company spends during the period October 1, 2011 through December 31, 2012 (except the expenditures on the existing Infrastructure Replacement Program and the CHOICE/Standard Service Offer ("SSO") SSO Reconciliation Rider) be included in its requested Capital Expenditure Program?

Response:

Yes.

**COLUMBIA GAS OF OHIO, INC.
RESPONSE TO OCC'S FIRST SET OF DISCOVERY
DATED OCTOBER 21, 2011**

Interrogatory No. 8:

Referring to paragraph 6 of the Application, what criteria will the Company use to determine the date upon which capital "projects are deemed used and useful in serving the needs of Columbia's customers" and are considered "in-service" in order to begin capitalizing post-in-service carrying costs and deferring depreciation expense and property taxes?

Response:

The determination of a date upon which capital "projects are deemed used and useful in serving the needs of Columbia's customers" and are considered "in-service" in order to begin capitalizing post-in-service carrying costs and deferring depreciation expense and property taxes is dependent upon the type of project. Mainline construction installations are considered to be in, or ready for service, when the line is pressurized with "blanket work orders" assumed to be in service in the month the costs are incurred.

Columbia uses blanket work orders for installations of types of property that are of a repetitive nature with numerous installations being completed within a short period of time. For accounting purposes, it would be impractical to issue a unique or individual construction work order for these types of installations. Generally, most of these installations take less than a day to complete, and in many cases, numerous installations can occur within one day. Due to how rapidly this type of work is completed, Columbia considers costs recorded to blanket work orders to be perpetually in-service. The use of blanket work orders for recording this type of capital plant is standard throughout the industry.

Columbia uses blanket work order accounting for service line replacements, house regulators and AMRDs with the accumulated costs being considered in service in the month incurred. Columbia does not use blanket accounting for its mainline installation costs because these projects generally take more than a day or two to complete.

PUCO Case No. 11-5351-GA-UNC
11-5352-GA-AAM
OCC Interrogatory No. 22
Respondent: Larry W. Martin

**COLUMBIA GAS OF OHIO, INC.
RESPONSE TO OCC'S FIRST SET OF DISCOVERY
DATED OCTOBER 21, 2011**

Interrogatory No. 22:

Referring to Attachment A of the Company's Application, "Growth" category will the "growth" produce any revenues?

Response:

Yes.

PUCO Case No. 11-5351-GA-UNC
11-5352-GA-AAM
OCC Interrogatory No. 73
Respondent: Larry W. Martin

**COLUMBIA GAS OF OHIO, INC.
RESPONSE TO OCC'S SECOND SET OF DISCOVERY
DATED NOVEMBER 28, 2011**

Interrogatory No. 73:

Referring to the Company's response to OCC Interrogatory No. 4, are the plant balances upon which PISCC is calculated net of retirements and accumulated depreciation?

Response:

No. All projections were based on gross plant additions and give no consideration to the impact of retirements.

PUCO Case No. 11-5351-GA-UNC
11-5352-GA-AAM
OCC Interrogatory No. 74
Respondent: Larry W. Martin

**COLUMBIA GAS OF OHIO, INC.
RESPONSE TO OCC'S SECOND SET OF DISCOVERY
DATED NOVEMBER 28, 2011**

Interrogatory No. 74:

If the Company's response to OCC Interrogatory No. 73 is negative, why are the plant balances upon which PISCC is calculated not net of retirements and accumulated depreciation?

Response:

The computation of PISCC will be calculated on gross investment in recognition of the additional carrying costs incurred by Columbia on these projects.

PUCO Case No. 11-5351-GA-UNC
11-5352-GA-AAM
OCC Interrogatory No. 75
Respondent: Larry W. Martin

COLUMBIA GAS OF OHIO, INC.
RESPONSE TO OCC'S SECOND SET OF DISCOVERY
DATED NOVEMBER 28, 2011

Interrogatory No. 75:

Referring to the Company's response to OCC Interrogatory No. 4, are the plant balances upon which property tax is calculated net of retirements and accumulated depreciation?

Response:

No.

PUCO Case No. 11-5351-GA-UNC
11-5352-GA-AAM
OCC Interrogatory No. 76
Respondent: Larry W. Martin

**COLUMBIA GAS OF OHIO, INC.
RESPONSE TO OCC'S SECOND SET OF DISCOVERY
DATED NOVEMBER 28, 2011**

Interrogatory No. 76:

If the Company's response to OCC Interrogatory No. 75 is negative, why are the plant balances upon which property tax is calculated not net of retirements and accumulated?

Response:

Retirements related to the investment upon which the deferred property tax projection set forth in Columbia's response to OCC Interrogatory No. 4 were not readily identifiable. Deferred property taxes will be computed net of retirements when actuals are calculated.

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Case No(s). 11-5351-GA-UNC, 11-5352-GA-AAM

Summary: Comments Initial Comments by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Serio, Joseph P.