

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.)

ENTRY ON REHEARING

The Commission finds:

- (1) Columbia Gas of Ohio, Inc. (Columbia or the Company) is a public utility as defined in Section 4905.02, Revised Code, and a natural gas company under Section 4905.03, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) By finding and order issued on August 29, 2012, the Commission modified and approved Columbia's application for authority to implement a capital expenditure program (CEP) for the period of October 1, 2011 through December 31, 2012, pursuant to Sections 4909.18 and 4929.111, Revised Code (CEP Order). The Commission approved Columbia's request to modify its accounting procedures to provide for capitalization of post-in-service carrying costs on those assets of the CEP 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 CEP that are placed into service, but not reflected in rates as plant in service. The Commission authorized Columbia to accrue CEP-related deferrals only up until the point where the accrued deferrals, if included in rates, would cause the rates charged to the Small General Service class of customers to increase by more than \$1.50 per month (deferral cap). At that point, accrual of all future CEP-related deferrals is required to cease, until such time as Columbia files to recover the existing accrued deferrals and

establish a recovery mechanism under Section 4909.18, 4929.05, or 4929.11, Revised Code.

- (3) Section 4903.10, Revised Code, states that any party who has entered an appearance in a Commission proceeding may apply for a rehearing with respect to any matters determined therein by filing an application within 30 days after the entry of the order upon the Commission's journal.
- (4) On September 28, 2012, the Ohio Consumers' Counsel (OCC) filed an application for rehearing of the CEP Order. Columbia filed a memorandum contra OCC's application for rehearing on October 9, 2012.
- (5) In its application for rehearing, OCC raises three assignments of error, all of which pertain to the deferral cap established by the Commission in the CEP Order. In its first assignment of error, OCC argues that the Commission erred by not including the actual cost of the CEP-related investments in the deferral cap calculation, thereby neglecting to protect customers from the potential future rate shock that necessitated the deferral cap. OCC points out that, if both the effect of the CEP deferrals and the actual CEP-related investments are considered in the calculation, the deferral cap may be exceeded in 2016. OCC notes that data provided by Columbia indicates, however, that the deferral cap may not be exceeded until 2023, if only the effect of the CEP deferrals is considered in the calculation, although the potential rate impact from the CEP-related investments may be \$5.25 per month, according to OCC. Given the magnitude of the impact of the actual CEP-related investments on the deferral cap, OCC asserts that the Commission should have relied on the principle of gradualism and included the actual CEP-related investments in the deferral cap calculation, as a means to mitigate the potential future rate impact. OCC adds that the Commission recently indicated that it is generally opposed to the creation of deferrals, except in

cases involving extraordinary circumstances.¹ OCC notes that Columbia made no attempt to demonstrate that there are extraordinary circumstances that justify the Commission's approval of the CEP deferrals.

- (6) In its second assignment of error, OCC asserts that the Commission erred by not explaining why it did not include the actual cost of the CEP-related investments in the deferral cap calculation, in violation of Section 4903.09, Revised Code. OCC also argues that the Commission failed to explain how the potential future rate shock would be mitigated by a deferral cap that does not include the actual CEP-related investments in the deferral cap calculation. OCC again emphasizes that excluding the actual CEP-related investments from the deferral cap calculation will result in a deferral period that is too long to the detriment of customers.
- (7) In its third assignment of error, OCC maintains that the Commission erred by not including the actual cost of the CEP-related investments in the deferral cap calculation, resulting in potential future rates that would not be just and reasonable, in violation of Section 4905.22, Revised Code. OCC contends that excluding the actual CEP-related investments from the deferral cap calculation may result in customers paying significantly higher costs. Based on data provided by Columbia, OCC projects that ceasing the CEP deferrals in 2016, as opposed to 2023, would save customers approximately \$28.3 million.
- (8) In its memorandum contra, Columbia asserts that OCC's arguments are procedurally defective and factually incorrect. Initially, Columbia notes that OCC's arguments are not based on the record in these proceedings and that OCC offers no rationale for its position that the Commission should take additional evidence on rehearing. Specifically, Columbia points out that none of the comments filed in these proceedings suggested that the

¹ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, *et al.*, Opinion and Order at 36 (August 8, 2012).

actual CEP-related investments should be included in the deferral cap calculation. Columbia argues that OCC has improperly attempted to augment the record by raising this issue for the first time in its application for rehearing. Columbia notes that the Commission rejected a similar attempt by OCC in a recent proceeding.²

- (9) Next, Columbia responds that OCC's arguments are meritless and based on a flawed data analysis. Columbia points out that there is no basis upon which the Commission may limit the Company's capital expenditures due to the potential future rate impact. Columbia adds that, as a result of numerous errors in OCC's data analysis, OCC has grossly overestimated the potential future rate impact of its position. Columbia notes that, when these errors are corrected, the difference between the deferral cap authorized by the Commission and OCC's proposed deferral cap is only \$0.29 per month, rather than a difference of \$3.75 per month, as OCC suggests.
- (10) Finally, Columbia argues that Section 4929.111, Revised Code, does not require a showing of extraordinary circumstances before the Commission may approve CEP-related deferrals. Columbia notes that, because the Commission determined that the Company satisfied the statutory criteria, the Commission was required to approve the CEP and the related accounting treatment for the CEP deferrals.
- (11) Upon review of OCC's application for rehearing and Columbia's memorandum contra, the Commission finds that the application for rehearing should be denied. In the CEP Order, we noted that Columbia proposed the deferral cap as an alternative to placing a specific time limit on the CEP deferrals, as recommended by OCC and initially supported by Staff. Staff subsequently agreed that the deferral cap proposed by Columbia was a reasonable approach. Specifically, Staff explained that the deferral cap reflects a reasonable balance between allowing the CEP

² In the Matter of the Application of Bay Shore Unit 1 for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility, Case No. 09-1042-EL-REN, Entry on Rehearing at 8-9 (June 16, 2010).

deferrals to accrue over a sufficient time period in order to avoid frequent recovery proceedings, and allowing the deferrals to accrue over a longer period, which could potentially result in rate shock, if and when the deferrals are ultimately recovered in Columbia's rates. In the CEP Order, we agreed with Staff's reasoning and found that the deferral cap is a reasonable means to mitigate the risk of future rate shock. Further, as pointed out by Columbia, Section 4929.111, Revised Code, places no particular limit on the duration of the deferrals other than to provide that they must cease when rates reflecting the cost of the regulatory assets are effective. However, because Columbia and Staff agreed upon, and recommended, a deferral cap in these proceedings, in our CEP Order, the Commission found it appropriate to adopt their proposal. We further note that the statute does not require that Columbia demonstrate that the CEP deferrals are justified by extraordinary circumstances, as OCC contends.

Additionally, the Commission emphasizes again that we have not granted cost recovery for any CEP-related items. OCC's first and third assignments of error, relating to the potential for future rate shock and future rates that are unjust and unreasonable, are premature and speculative at this point. The prudence and reasonableness of the magnitude of Columbia's CEP-related regulatory assets and associated capital spending will be reviewed by the Commission in any future proceedings seeking cost recovery. The Commission will address any arguments regarding rate shock and the reasonableness of the proposed rates at that time. For these reasons, we find no merit in OCC's first and third assignments of error.

We reach the same conclusion with respect to OCC's second assignment of error. No party recommended that the deferral cap include the actual cost of the CEP-related investments. Therefore, the Commission had no obligation, pursuant to Section 4903.09, Revised Code, to explain in the CEP Order why we did not include the actual cost of the CEP-related investments in the deferral cap calculation. The Commission approved the deferral

cap, as it was proposed by Columbia and accepted by Staff. The Commission thoroughly considered the recommendations that were presented in the parties' comments, and we explained the basis for our decision, in accordance with Section 4903.09, Revised Code. Accordingly, OCC's second assignment of error should also be denied.

It is, therefore,

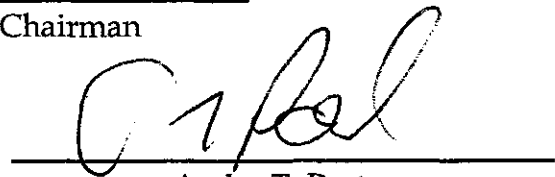
ORDERED, That OCC's application for rehearing be denied in its entirety. It is, further,

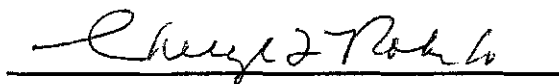
ORDERED, That a copy of this entry on rehearing be served upon all parties of record.

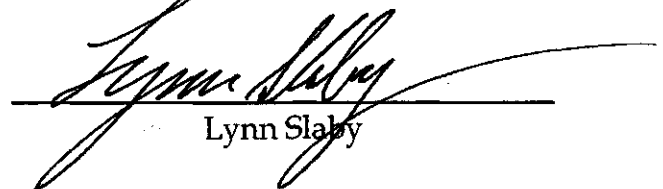
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


Andre T. Porter

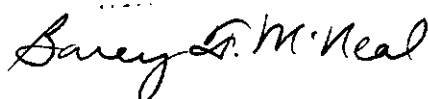

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Entered in the Journal

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Barcy F. McNeal
Secretary