

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Columbia Gas of Ohio, Inc., for Approval) Case No. 11-5515-GA-ALT
of an Alternative Form of Regulation.)

OPINION AND ORDER

The Commission, considering the above-entitled application, the applicable law, the proposed stipulation, and other evidence of record, and being otherwise fully advised, hereby issues its opinion and order.

APPEARANCES:

Stephen B. Seiple and Brooke E. Leslie, 200 Civic Center Drive, P.O. Box 117, Columbus, Ohio 43216-0117, on behalf of Columbia Gas of Ohio, Inc.

Mike DeWine, Ohio Attorney General, by Thomas Lindgren, Assistant Attorney General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of the Staff of the Public Utilities Commission.

Bruce J. Weston, Ohio Consumers' Counsel, by Larry S. Sauer and Joseph P. Serio, Assistant Consumers' Counsel, 10 West Broad Street, Columbus, Ohio 43215-3485, on behalf of the residential utility consumers of Columbia Gas of Ohio, Inc.

McNees, Wallace & Nurick LLC, by Samuel C. Randazzo, Frank P. Darr, Joseph E. Olikier, and Matthew R. Pritchard, 21 East State Street, 17th Floor, Columbus, Ohio 43215, on behalf of Industrial Energy Users-Ohio.

Colleen L. Mooney, 231 West Lima Street, P.O. Box 1793, Findlay, Ohio 45839-1793, on behalf of Ohio Partners for Affordable Energy.

M. Anthony Long, 24000 Honda Parkway, Marysville, Ohio 43040, on behalf of Honda of America Mfg., Inc.

Chad A. Ensley, 280 North High Street, P.O. Box 182383, Columbus, Ohio 43218-2383, on behalf of the Ohio Farm Bureau Federation.

OPINION:I. HISTORY OF THE PROCEEDING:

The applicant, Columbia Gas of Ohio, Inc. (Columbia, applicant, or company), is a natural gas company as defined by Section 4905.03, Revised Code, and a public utility as defined by Section 4905.02, Revised Code. Columbia, a subsidiary of NiSource Inc., is the largest local gas distribution company in Ohio and serves approximately 1.4 million customers in 60 of Ohio's 88 counties.

On December 3, 2008, the Commission approved and adopted a stipulation regarding applications filed by Columbia, for approval of an increase in gas distribution rates, an alternative rate plan for its gas distribution service, and an application to modify certain accounting methods, as well as for authority to revise its depreciation accrual rates. *Columbia Gas of Ohio, Inc.*, Case Nos. 08-72-GA-AIR, et al. (October 24, 2008) (*2008 Columbia Rate Case*).

On December 9, 2011, Columbia filed a notice of intent to file an application for approval of an alternative rate plan, pursuant to Chapter 4929, Revised Code, and Rules 4901-7-01 and 4901:1-19-05, Ohio Administrative Code (O.A.C.). According to the filing, Columbia sought authority to implement an alternative rate plan consisting of a five-year extension of the infrastructure replacement program (IRP) portion of its alternative rate plan, which was originally approved pursuant to the stipulation in the *2008 Columbia Rate Case*, as well as a new economic development cost recovery mechanism.

On March 5, 2012, Columbia filed an amended notice of intent to file an application for approval of an alternative rate plan. In its amended notice, Columbia stated that it intends to file its application, pursuant to Section 4929.051(B), Revised Code. Columbia explained that its application will only seek authority to continue the IRP portion of its alternative regulation plan for another five-year period.

On May 8, 2012, Columbia filed an application, along with supporting exhibits and schedules, pursuant to Sections 4929.051(B) and 4929.11, Revised Code, requesting authority to continue the IRP portion of its alternative regulation plan for another five-year period. In the application filed in this docket on May 8, 2012, Columbia proposed to continue its alternative regulation plan approved by Commission the *2008 Columbia Rate Case*, for an additional five-year period (incorporating IRP investments made from January 1, 2013 through December 31, 2017), and to also clarify the scope of Columbia's current alternative regulation plan.

By entry of May 22, 2012, the attorney examiner established a procedural schedule, which set a deadline for filing motions to intervene and a deadline for filing comments. By subsequent entry, the deadline for filing comments was extended in order to allow the parties to conduct settlement negotiations. No comments were filed. On various dates, motions to intervene filed by the Ohio Consumers' Counsel (OCC), the Ohio Partners for Affordable Energy (OPAE), and the Ohio Farm Bureau Federation (OFBF) were granted. On February 15, 2012, and on May 31, 2012, Honda of America Mfg, Inc. (Honda) and Industrial Energy Users-Ohio (IEU), respectively, filed motions to intervene. No memorandum contra the motions were filed. The Commission finds that these motions are reasonable and should be granted.

On September 26, 2012, Columbia, OCC, OPAE, Honda, Staff, and OFBF filed a joint stipulation and recommendation (Stipulation) in this case.

II. APPLICABLE LAW:

Section 4929.05, Revised Code, states that a natural gas company may request approval of an alternative rate plan by filing an application under Section 4909.18, Revised Code, regardless of whether the application is for an increase in rates. In addition, Section 4929.051, Revised Code, provides that an alternative rate plan filed by a natural gas company under Section 4929.05, Revised Code, which seeks to continue a previously approved alternative rate plan, shall be considered not for an increase in rates. Furthermore, Section 4929.11, Revised Code, states that, if an application is filed under Section 4909.18 or 4929.05, Revised Code, the Commission may allow any automatic adjustment mechanism or device as described in Section 4929.11(A), Revised Code.

Section 4909.18, Revised Code, provides that, if an application is not for an increase in rates, the Commission may permit the filing, unless it appears that the proposal may be unjust or unreasonable, in which case the Commission shall set the matter for hearing.

III. APPLICATION:

In this application, Columbia is seeking authority to continue the IRP portion of its alternative regulation plan for its gas distribution service for another five-year period, incorporating IRP investments made through 2017. According to Columbia, this will allow Columbia to track and recover, on an annual basis, the costs of implementing Rider IRP. In addition to extending the IRP for another five years,

Columbia is also proposing to clarify the scope of its IRP to include: (1) interspersed sections of non-priority pipe contained within the bounds of priority pipe replacement projects when it is more economical to replace such pipe, rather than attempt to tie into the existing sections of pipe; and (2) sections of plastic and ineffectively coated steel pipe when such pipe is associated with priority pipe replacement projects. Under the application, Columbia will continue to bear the burden of demonstrating the reasonableness of the costs included in the IRP and the IRP will remain subject to scrutiny by the Commission and interested parties.

IV. STIPULATION:

As stated previously, on September 26, 2012, Columbia, OCC, OPAE, Honda, Staff, and OFBF filed a Stipulation in this case that they believe resolves all of the issues in this proceeding, as well as some issues related to Columbia's next annual filing to adjust its Rider IRP. IEU indicated that it neither supports, nor opposes, the Stipulation. The stipulating parties agree that Columbia's application should be approved, with the modifications described in the Stipulation. The following is a summary of the conditions agreed to by the stipulating parties and is not intended to replace or supersede the Stipulation. The stipulating parties agree, *inter alia*, that:

- (1) Columbia may continue its Rider IRP mechanism to reflect IRP investments made through December 31, 2017. However, should Columbia file a base rate case with new rates effective before December 31, 2017, as part of any such rate case, interested parties may challenge any aspect of the IRP and the Commission may, as a result of such challenge, or on its own initiative, revise Columbia's IRP prior to December 31, 2017.
- (2) The primary scope of the Accelerated Mains Replacement Program (AMRP) component of Columbia's IRP is a 25-year program to replace approximately 4,100 miles of bare-steel, cast iron, and wrought iron pipe which is contained throughout Columbia's distribution system. By December 31, 2017, Columbia expects to have replaced approximately 1,640 miles of this bare-steel, cast iron, and wrought iron pipe. To the extent that Columbia has replaced less than 1,640 miles of this pipe by December 31, 2017, the costs of the replacement of such shortfall (i.e., 1,640 miles less the actual miles replaced) may not ever be

recovered through the IRP mechanism. The costs of such shortfall shall be based on the average cost of the pipeline replacements during calendar year 2017.

- (3) The scope of the AMRP component of Columbia's IRP should be clarified to expressly include interspersed sections of nonpriority pipe contained within the bounds of priority pipe replacement projects where it is more economical to replace such pipe, rather than to attempt to tie into the existing sections of pipe. The determination of what constitutes "economical to replace" is based on the analysis attached to Columbia witness Eric Belle's prefiled direct testimony filed in this docket on May 8, 2012. Based on that analysis, the following metric with regard to the replacement of nonpriority pipe shall be used:

PIPE DIAMETER	REPLACE, IF FOOTAGE IS LESS THAN OR EQUAL TO
8-inch	205 feet
6-inch	250 feet
4-inch	365 feet
2-inch	435 feet

This clarification shall also be applicable for purposes of Columbia's upcoming Rider IRP filing.

- (4) The scope of the AMRP component of Columbia's IRP should be clarified to expressly include first generation plastic pipe or Aldyl-A plastic pipe when such pipe is associated with priority pipe in replacement projects. For each calendar year of the IRP, the footage of such first generation plastic pipe and Aldyl-A plastic pipe that may be included in Rider IRP may not exceed five percent of the total AMRP program footage for that same calendar year.
- (5) Columbia will develop and submit for Staff and other interested parties' review a procedure for identifying and quantifying the footage of first generation or Aldyl-A plastic pipe it replaces for each AMRP project, and will file and implement that procedure no later than January 1, 2013.

- (6) The scope of the AMRP component of Columbia's IRP should be clarified to expressly include ineffectively coated steel, subject to the provisions of this paragraph. Steel pipe installed and field coated before 1955 shall be considered to be ineffectively coated without further testing, and within the scope of the IRP, with the replacement costs thereof recovered through Rider IRP. Coated steel pipe installed in 1955 or later will be cathodically tested to determine whether it is ineffectively coated and, if it is found to be ineffectively coated, the costs associated with its testing and replacement will be included in Rider IRP. The cost of testing any segment found to be effectively coated shall not be included in Rider IRP. The cost of testing pipe found to be ineffectively coated shall be capitalized with the replacement project.
- (7) The scope of the AMRP component of Columbia's IRP should be clarified to expressly include the costs of system improvements for future growth purposes only if the improvements are for the same purpose as the original role of the priority pipe and the cost is no more than an in-kind (i.e., size-for-size) replacement of the replaced pipe.
- (8) The cost of moving inside meters to outside locations, which shall be capitalized, shall be recovered through Rider IRP only to the extent that all of the following conditions are met:
 - (a) Columbia plans to and actually does increase the pressure in the pipeline associated with the meter to operate that pipeline at regulated pressure (greater than 1 pound per square inch gauge);
 - (b) The meter is connected to a segment of pipe to be replaced as part of the AMRP; and,
 - (c) Columbia plans to, and actually does, operate the replacement mains and associated service lines at regulated pressure within two years of relocating the first meter on the project. If Columbia has included the cost of a meter

relocation based on plans to operate the replacement mains and associated service lines at regulated pressure, but does not do so within two years of relocating the first meter on the project, Columbia will remove the associated cost from the revenue requirement in the next Rider IRP application and include a credit for any associated costs previously included in Rider IRP charges billed to customers.

- (9) Columbia may recover, through Rider IRP, the costs associated with replacing segments of pipe that include priority pipe where Columbia's pipe is in a public right-of-way, and Columbia is required to relocate its facilities at the request of a governmental entity. Columbia may recover, through Rider IRP, such costs due to governmental relocations only if any plastic pipe associated with the relocation is less than or equal to 25 percent of the total footage relocated due to the governmental relocation.
- (10) Columbia's annual Rider IRP adjustment filings, to date, have involved contentious issues regarding the amount of AMRP operations and maintenance (O&M) savings to be credited to customers, as well as the recovery of project costs that otherwise would not have been included in Columbia's capital replacement program. These contentious issues can be addressed by guaranteeing a minimum level of savings (which will be shown as a line item reduction in the annual revenue requirement calculation) to be credited to customers in future Rider IRP adjustment proceedings. These issues will be resolved (with respect to the signatory parties hereto) in Columbia's upcoming Rider IRP adjustment case, as part of their agreement to this Stipulation. The signatory parties, thus, agree that the minimum level of AMRP O&M savings to be reflected as a reduction to the Rider IRP rate that is collected from customers as determined in Columbia's annual Rider IRP adjustment cases shall be:
 - (a) For 2012 expenditures, the greater of Columbia's actual O&M savings or \$750,000.

- (b) For 2013 expenditures, the greater of Columbia's actual O&M savings or \$1,000,000.
 - (c) For each year 2014 through 2017 expenditures, the greater of Columbia's actual O&M savings or \$1,250,000.
- (11) In light of the minimum AMRP O&M savings specified above, and, in light of all the other provisions of this Stipulation, the signatory parties agree that, for Columbia's Rider IRP adjustment cases covering investments for years 2012 through 2017, all such IRP projects completed during those years are not considered to be projects that otherwise would have been included in Columbia's capital replacement program and, therefore, there should not be any adjustment to the Rider IRP rate on that basis.
- (12) By December 31, 2012, Columbia shall submit for review by Staff and other parties a plan that outlines the steps Columbia will initiate on or before April 15, 2013, to complete the installation of Automatic Meter Reading Devices (AMRD) on those inside meters that do not yet have AMRD. Implementation of the plan shall be considered complete when the plan has been docketed and AMRD have been installed on all active meters. If Columbia does not complete the installation of AMRD on all active meters by December 31, 2013, Columbia shall file an explanation for not completing such installations, a quantification of the associated impact on O&M savings, and its plans for completing such installations. Columbia will not seek IRP recovery for the cost of AMRD installed after December 31, 2013.
- (13) The monthly Rider IRP charge for Columbia's Small General Service (SGS) and Small General Transportation Service (SGTS) customers (collectively referred to herein as the SGS Class), based on data for calendar year 2013, shall not exceed \$6.20. The monthly Rider IRP charge for the SGS Class, based on data for calendar year 2014, shall not exceed \$7.20. The monthly Rider IRP charge for the SGS Class, based on data for calendar year 2015, shall not exceed \$8.20. The

monthly Rider IRP charge for the SGS Class, based on data for calendar year 2016, shall not exceed \$9.20. The monthly Rider IRP charge for the SGS Class, based on data for calendar year 2017, shall not exceed \$10.20.

- (14) A customer assistance fund was established as part of the settlement of the 2008 *Columbia Rate Case*. The winter heating season of 2012 through 2013 is the last winter heating season in which that customer assistance fund is available. The signatory parties agree that the customer assistance fund should continue to be made available for five years in conjunction with the continuation of Columbia's alternative regulation plan. The continued customer assistance fund shall be made available over five winter heating seasons (2013-2014 through 2017-2018). Columbia shall provide \$2,562,500 to establish and administer a customer assistance fund available to aid low income customers in the payment of bills when all other available funds have been exhausted. The anticipated yearly split of the funds is \$512,500 per winter heating season. In the event that these customer assistance funds are not fully disbursed in any individual winter heating season, any such unused customer assistance funds shall carryover to the next winter heating season with all such customer assistance funds, if used, to be disbursed no later than December 31, 2018. These disbursements during the 2013-2014 through 2017-2018 winter heating seasons will be funded by Columbia's shareholders and represent a reduction of Columbia's future revenues, to which Columbia agreed in order to facilitate a settlement of the instant cases. The disbursements are not a pass back of prior earnings and are not associated with any prior period activity, but are an agreed upon reduction of future revenues, and will not be recovered from Columbia's customers. The fuel fund will be operated in conjunction with the Ohio Development Services Agency and its network of agencies which provide customer assistance through the Emergency Home Energy Assistance Program, as is the current practice.

- (15) The signatory parties agree that all prefiled testimony in this matter shall be deemed admitted into the record and all cross-examination of such witnesses will be waived, unless this Stipulation becomes null and void due to a material modification by the Commission.

CONCLUSION:

Rule 4901-1-30, O.A.C., authorizes parties to Commission proceedings to enter into stipulations. Although not binding on the Commission, the terms of such an agreement are accorded substantial weight. See *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (1978). This concept is particularly valid where the stipulation is unopposed by any party and resolves almost all of the issues presented in the proceeding in which it is offered.

The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. See, e.g., *Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (April 14, 1994); *Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT (March 30, 1994); *Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al. (December 30, 1993); *Cleveland Electric Illum. Co.*, Case No. 88-170-EL-AIR (January 30, 1989); *Restatement of Accounts and Records (Zimmer Plant)*, Case No. 84-1187-EL-UNC (November 26, 1985). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

The Ohio Supreme Court has endorsed the Commission's analysis using these criteria to resolve issues in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 547, 629 N.E.2d 423 (1994), citing *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 126, 592 N.E.2d 1370 (1992). The court stated in that case that the Commission may place

substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission. *Consumers' Counsel* at 126.

The signatory parties agree that the Stipulation is supported by adequate data and information, represents a just and reasonable resolution of the issues that are proposed to be resolved by the Stipulation in this proceeding, violates no regulatory principle, and is the product of lengthy, serious bargaining among knowledgeable and capable parties in a cooperative process undertaken by the parties to settle such contested issues.

Upon review of the stipulation, the Commission finds that it is the product of serious bargaining among capable, knowledgeable parties. All of the intervening parties have historically participated in Commission proceedings, are knowledgeable and capable parties. The Commission is willing to accept this Stipulation in the interest of timely resolution of a matter to which the signatory parties have agreed and there is no opposition. Finally, with regard to our review of the Stipulation, there is no evidence that it violates any regulatory principle or precedent. Section 4929.051(B), Revised Code, provides that an alternative rate plan filed by a natural gas company under this section, which seeks authorization to continue a previously approved alternative rate plan, shall be considered an application not for an increase in rates. Upon review, we find that the application filed in this case on May 8, 2012, was appropriately filed under Sections 4929.051(B) and 4929.111, Revised Code, is not for an increase in rates, and does not appear to be unjust or unreasonable; therefore, it is unnecessary for the Commission to hold a hearing in this matter. Accordingly, upon consideration of the record in this case and the Stipulation, we find that the Stipulation is reasonable and, therefore, it should be approved and adopted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Columbia is natural gas company as defined by Section 4905.03, Revised Code, and a public utility as defined by Section 4905.02, Revised Code.
- (2) On March 5, 2012, Columbia filed an amended notice of intent to file an application for approval of an alternative rate plan. In its amended notice, Columbia stated that it intends to file its application, pursuant to Section 4929.051(B), Revised Code.

- (3) On May 8, 2012, Columbia filed an application, along with supporting exhibits and schedules, pursuant to Sections 4929.051(B) and 4929.11, Revised Code, requesting authority to continue the IRP portion of its alternative regulation plan for another five-year period.
- (4) By entry of May 22, 2012, the attorney examiner established a procedural schedule, which established a deadline for filing motions to intervene and a deadline for filing comments. By subsequent entry, the deadline for filing comments was extended. No comments were filed.
- (5) On various dates, motions to intervene filed by the OCC, OPAE, and the OFBF were granted.
- (6) On February 15, 2012, and on May 31, 2012, Honda and IEU, respectively, filed motions to intervene. No memorandum contra the motions were filed. These motions are reasonable and should be granted.
- (7) On September 26, 2012, Columbia, OCC, OPAE, Honda, Staff, and OFBF filed a Stipulation in this case that they believe resolves all of the issues in this proceeding, as well as some issues related to Columbia's next annual filing to adjust its Rider IRP.
- (8) The company's application was filed, pursuant to the provisions of Sections 4929.051(B) and 4929.111, Revised Code, and the application complies with the requirements of this statute.
- (9) The Stipulation is reasonable and should be approved and adopted.

ORDER:

It is, therefore,


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

ORDERED, That the Stipulation is approved and adopted. It is, further,

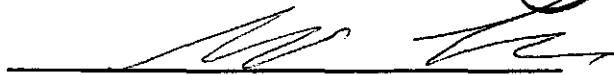
ORDERED, That nothing in this opinion and order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this opinion and order be served on all parties of record.

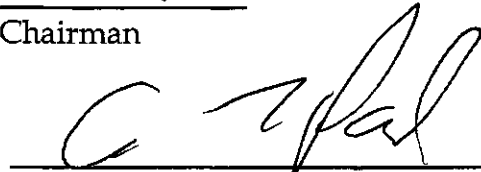
THE PUBLIC UTILITIES COMMISSION OF OHIO



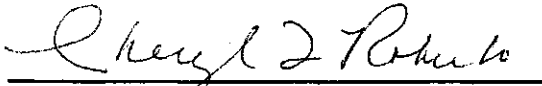
Todd A. Snitchler, Chairman



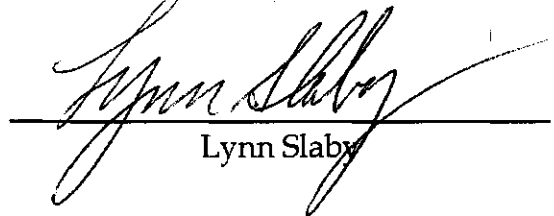
Steven D. Lesser



Andre T. Porter



Cheryl L. Roberto

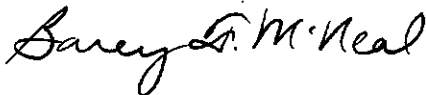


Lynn Slaby

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Entered in the Journal

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Barcy F. McNeal
Secretary