

In the Matter of the Application of )  
Columbia Gas of Ohio, Inc. for Approval ) Case No. 14-1615-GA-AAM  
to Change Accounting Methods. )

**COMMENTS  
BY  
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<sup>1</sup> Columbia Application (“Application”) at 2-3.

## II. STANDARD OF REVIEW

In its review of utility applications seeking approval to defer capital costs or related expenses, the PUCO has determined that granting deferral authority is a **discretionary matter** within the PUCO's authority.<sup>2</sup> However, the PUCO has ruled that deferrals are not the standard mechanism for collecting costs. Instead, the PUCO has held that deferral accounting is an exception to utility ratemaking:

Standard application of public utility ratemaking and accounting principles would require that ordinary expenses incurred by a regulated public utility must be recovered, if at all, through annual revenues.<sup>3</sup>

The PUCO has established clear criteria that must be met before permitting a utility to defer expenses for future collection:

We believe that to approve such a measure **requires** that we find there to be **both exigent circumstances and good reason** demonstrated before such amounts should be treated differently from ordinary utility expenses.<sup>4</sup>

These requirements have been recognized and confirmed by the Ohio Supreme Court.<sup>5</sup>

Thus, utilities requesting deferral authority -- like Columbia -- must demonstrate

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<sup>2</sup> *In the Matter of the Joint Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Electric Company for Approval of a Generation Charge Adjustment Rider*, Case No. 05-704-EL-AAM, Opinion and Order at 8 (January 4, 2006). ("FirstEnergy Deferral Case"). Emphasis added.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 8-9. Emphasis added.

<sup>5</sup> *Elyria Foundry Co. v. Public Utility Comm. of Ohio* (2007), 114 Ohio St.3d at 310-312, 2007-Ohio-4164.

that both exigent circumstances and good cause or reason exist why the expenses should be treated differently from ordinary utility expenses.<sup>6</sup> Furthermore, the costs in question must be subject to review before they are incorporated into rates, ensuring that the costs are reasonable, appropriately incurred, and clearly and directly related to the exigent circumstances for which they were authorized.<sup>7</sup>

In addition to these two requirements, the PUCO also noted that the deferral must apply only to expenses that exceed amounts already included in the Utility's base rates and that the expenses are necessary to maintain the utility's financial or service reliability integrity:

We are mindful that such deferrals must be scrutinized to assure that the costs to be deferred are reasonable, appropriately incurred, clearly and directly related to specific and necessary infrastructure improvements and reliability needs of the Companies, **and in excess of expense amounts already included in the rate structure** of each of the Companies.<sup>8</sup>

The PUCO must review Columbia's application with these standards in mind.

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<sup>6</sup> While the Supreme Court of Ohio recognized that FirstEnergy had not demonstrated exigent circumstances for approval of deferral, it found that current rates are not affected by the accounting deferrals and other parties could challenge the recovery of deferred distribution expenses in FirstEnergy's next distribution rate cases. The Supreme Court emphasized that "[t]he commission made it clear that 'deferred amounts will be reviewed before they are incorporated into future rates' and thus the 'commission's accounting order was not conclusive for ratemaking purposes.'" *Elyria Foundry, citing Cincinnati v. Pub. Util. Comm.*, 63 Ohio St.3d 366, 588 N.E.2d 775 (1992) (no prejudice resulting from an accounting order having a ratemaking effect where rate proceeding was still pending and appellant had a right of appeal). The Supreme Court of Ohio also emphasized that the commission provided "a process to ensure that the deferred expenses for improvements to and maintenance of its infrastructure are in fact necessary costs related to improving the reliability of its distribution system." The Supreme Court stated that the "commission will scrutinize these deferred expenses to determine whether the 'costs to be deferred are reasonable, appropriately incurred, clearly and directly related to specifically necessary infrastructure improvements and reliability needs of [FirstEnergy], and in excess of expense amounts already included in the rate structures of each of the [FirstEnergy] Companies.'" Among other things, the Court noted that the commission required FirstEnergy to establish separate accounts for each project for which they proposed to defer expenses and that commission staff would then review the reasonableness and necessity of the deferred expenses in those accounts annually.

<sup>7</sup> FirstEnergy Deferral Case at 8-9.

<sup>8</sup> *Id.* at 9. Emphasis added.

### **III. COMMENTS**

#### **A. Columbia Failed To Demonstrate That It Meets Any of The PUCO Standards For Deferral Authority.**

##### **1. Columbia Failed to Demonstrate Exigent Circumstances.**

In its Application for deferral authority, Columbia failed to demonstrate that exigent circumstances exist that would warrant the need for the requested deferrals. In fact, Columbia did not even claim that exigent circumstances exist. Instead, Columbia merely notes that 5 year old Department of Transportation regulations require a Distribution Integrity Management Program.<sup>9</sup> Columbia added that it was implementing a PSP to meet those requirements.<sup>10</sup> In defense of its request, Columbia states that,

Over the last several years using its own resources, Columbia has developed an internal organization whose specific role is to develop and implement a program that addresses: (a) knowledge of its distribution system; (b) threat identification; (c) risk evaluation and ranking; (d) implementation of measures to address risk; (e) measurement of performance, monitoring results and evaluating effectiveness; (f) periodic evaluation and improvement; and (g) reporting results.<sup>11</sup>

As explained in its Application, “[t]hrough this process, Columbia has identified programs to reduce risks in an accelerated manner.”<sup>12</sup> However, in making this claim, Columbia does not claim or demonstrate that its current circumstances are exigent. The PUCO has previously described exigent circumstances to exist where the electric utility needed “significant and costly improvements to their infrastructure.”<sup>13</sup>

When this standard is applied to Columbia, the Utility’s Application is lacking.

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<sup>9</sup> Application at 1-2.

<sup>10</sup> Application at 2.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> FirstEnergy Deferral Case at 9.

Moreover, Columbia has failed to demonstrate that there is such a pressing need for the PSP or the requested deferral authority. Rather, Columbia only makes broad general statements about the need for the program and the deferral authority. Columbia has not demonstrated the existence of exigent circumstances. Thus, the request should be denied.

## **2. Columbia Failed to Demonstrate Good Reason For Deferral of its Expenses.**

Although the PSP-related expenses that Columbia requests deferral authority for are alleged to be for safety-related purposes, Columbia has made no showing that there is good reason why the expenses should be entitled to special deferral treatment. The mere fact that spending might be safety-related does not in and of itself constitute good reason. The fact remains that Columbia is well aware of its statutory obligation (under R.C. 4905.22) to provide utility service that is safe, reliable, and reasonably priced. Columbia has failed to show why the requested pipeline expenses are not a general utility expense that could be collected in the normal course of business through a distribution rate case.

Columbia should not be afforded the right to defer and the opportunity to collect charges through a rider for every expense it incurs.<sup>14</sup> In the current competitive market that the legislature has established, Columbia is obligated to pay for expenses that it incurs in the normal course of business, such as ensuring the safety and reliability of its distribution pipeline system.<sup>15</sup> And the recovery of such charges is allowed in the course of distribution base rate cases.

In support of its Application, Columbia states that, “[t]he incurrence of these costs

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<sup>14</sup> FirstEnergy Deferral at 8-9.

<sup>15</sup> R.C. 4905.22.

**may** result in a significant and unavoidable negative impact on Columbia earnings.”<sup>16</sup>

Based on the Application, there is no evidence or even assertion that incurrence of these costs **will** result in a significant and unavoidable negative financial impact. Absent such a showing, Columbia has failed to show good reason for the deferral.

### **3. Columbia Failed To Demonstrate That Its Financial Integrity Would Be Impacted Without The Deferral Authority.**

Columbia does not define or quantify what might constitute a “significant” negative impact to its earnings if the PUCO does allow it to defer the expenses in question. Columbia claims that the maximum amount of expenses to be deferred, with approval of this application, is “\$15 million per calendar year.”<sup>17</sup> Columbia provides no supporting documentation for this claim.

Nonetheless, when this \$15 million is compared to Columbia’s current annual operating revenues and expenses, the cost is not “significant.” Nor can (or does) Columbia claim that without the deferral authority requested its financial integrity would be impacted. According to Columbia’s Annual Report to the PUCO, the Utility’s operating revenues and expenses for the year ended December 31, 2013, were \$855,871,337 and \$743,717,113, respectively.<sup>18</sup> An annual increase of \$15,000,000 to Account 182, as Columbia proposes, would constitute just 1.75 percent of its Operating Revenues and just 2.02 percent of its Operating Expenses, for the year. And if the total amount of PSP expenses does not reach the maximum amount of \$15,000,000, then the percentages will be even smaller, possibly less than one percent. This amount simply

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<sup>16</sup> Application at 2-3 (emphasis added).

<sup>17</sup> Application at 3.

<sup>18</sup> Natural Gas Companies Annual Report, Columbia Gas of Ohio, Inc., to the Public Utilities Commission of Ohio at 15.



cannot be considered large enough to have a “significant” negative impact on Columbia’s earnings to impact the Utility’s financial integrity.

**4. Columbia Failed to Demonstrate that the PSP Expenses Are Not Already Included in Base Rates.**

Columbia claims that pipeline safety expenses are not recovered in its current base rates.<sup>19</sup> However, Columbia has provided no support for this claim. The Utility has not identified what pipeline safety expenses are currently included in base rates, and how those expenses in base rates can be distinguished from the expenses Columbia requests authority to defer. The danger to customers is that they could be charged rates that allow the Utility to double recover expenses. That is not just or reasonable in any sense.

**5. The PSP Expenses Should Be Fully Vetted In Columbia’s Next Distribution Rate Case.**

In addition, Columbia states that

The establishment of a rider in a separate proceeding or in Columbia’s next general rate case will provide for recovery of these prudent and necessary business expenses on a dollar-for-dollar basis with no possibility of over-recovery from customers. This rider will be applicable to customers served under all rate schedules. When Columbia seeks to recover the deferred amounts, it will propose an amortization period that results in a rider not greater than fifty cents per month to its customers served under its Small General Service rate schedule(s), **unless determined by Staff and Columbia that a greater customer charge is appropriate.**<sup>20</sup>

First, OCC notes that any such determination is one for the PUCO, and not the PUCO Staff or Columbia, to make. Second, before any such determination is made, there must be a demonstration by Columbia that the spending was reasonable and prudent. Third, Columbia claims that a monthly fifty cent charge is to be expected unless a **greater**

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<sup>19</sup> Application at 2.

<sup>20</sup> Application at 3 (emphasis added).

charge is deemed appropriate. The PUCO has the authority to approve a lesser charge. And it can reject the charge altogether. Lastly, any amortization period, if the deferral is allowed, would be a matter to determine in the rate case proceeding.

If, in the alternative, the PUCO does authorize Columbia to defer the costs of its PSP, the OCC urges the PUCO to require that any cost recovery be reviewed as part of a full rate proceeding, to assure that the underlying costs receive the necessary and complete review that is required under law.

**B. The Cross Bore Safety Initiative Expenses Should Not Be Approved For Deferral.**

In its Application, Columbia describes its first PSP initiative, the Cross Bore Safety Initiative, as a program that “will systematically identify, investigate and remediate **potentially** dangerous cross bores on Columbia’s system.”<sup>21</sup> Columbia defines a cross bore as “the intersection of one underground utility or structure by a second underground utility or structure that compromises the structural integrity of the underground utility and of the underground structure.”<sup>22</sup>

While there is no complete data set concerning the history of cross bores on Columbia’s system, the Application does state that “Columbia experienced a single [Department Of Transportation] reportable incident related to a main that was cross bored through a sewer lateral in 2006” and that “[t]he Cross Bore Safety Initiative is being proposed to identify and correct possible cross bores that occurred prior to 2007 (legacy cross bores).”<sup>23</sup> Columbia only cites to this single example in 2006. By not citing to any

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<sup>21</sup> Application at 7 (emphasis added).

<sup>22</sup> Id.

<sup>23</sup> Id.

occurrence since then, it could be interpreted that the 2006 example is the most recent occurrence. Even so, the Application does not identify who caused that 2006 incident, how much damage was caused, how the situation was rectified, if the situation was rectified, nor whether there was third-party liability and, if so, who covered that liability. Without this information, any decision on whether this program is necessary (based on this one instance) or reasonable cannot be made.

The Application should not be approved because there is no showing that the initiative is necessary. Columbia simply states that the PSP will need to “identify” and “investigate” any of these “potentially dangerous” situations and then “remediate” them. The Application has merely identified the one cross borer situation that currently exists (or existed). However, this single cross bore circumstance fails to justify a proposal to spend up to \$15,000,000, in part, each year on these “potentially dangerous” issues. Nor do the potential expenditures necessarily facilitate a safer and more reliable natural gas distribution system for customers.

Columbia states that excavators are currently required to request that underground utility lines be marked before excavation can begin. Excavators are then supposed to verify the precise location of these utility lines, before boring near the lines. However, Columbia states, “if sewer lines (mains and laterals) are not marked, or the excavator does not verify the sewer lines’ location, then the excavator ‘bores’ through the sewer lines and unknowingly leaves a utility line (gas piping, electric water or telecommunication cables) inside.”<sup>24</sup> Columbia states that it is these types of situations that it hopes to remedy with its Cross Bore Safety Initiative. To be clear the liability

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<sup>24</sup> Application at 7.

associated with unmarked lines should not be borne by customers; thus, it would be inappropriate to defer such expenses because they are not reasonable deferred expenses.

Columbia further maintains that the byproducts of this initiative will alleviate a heightened safety risk and increase both awareness of the issue and communication about any potential cross bores.<sup>25</sup> To spend up to \$15,000,000 on an issue in response to only one occurrence is not reasonable, nor is it an ordinary and necessary business expense” that is appropriate to defer and seek to collect from customers. Columbia has failed to demonstrate that the Cross Bore Safety Initiative is necessary, and the PUCO should deny the Utility’s request to defer associated expenses.

**C. The Damage Prevention Technology Initiative Should Not Be Approved For Deferral.**

Columbia states that its second initiative, the Damage Prevention Technology Initiative, “will implement new technologies and damage prevention activities designed to reduce system risks associated with excavation damage” by “compiling a more accurate and complete infrastructure record...”<sup>26</sup> But Columbia fails to explain with any data or specificity whatsoever, how much more “accurate and complete” of a record is necessary in order to achieve its objective. Without a more comprehensive and specific explanation the PUCO should not approve the deferral of expenses not shown to be necessary.

Columbia’s Application additionally states that “three root causes were identified among Columbia’s top ten highest system risks: excavator error[s], poor records, and

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<sup>25</sup> Application at 9.

<sup>26</sup> Id.

locate error[s].”<sup>27</sup> All three of the cited root causes are in no way customers’ fault or responsibility.

Excavator error, which was the most prevalent root cause of excavation damage, is a mistake made by a third-party excavator, not customers. Yet, Columbia’s Application supplies no details about what was done after the errors were committed. When an error such as this is made, Columbia should look to hold the excavator who made the error responsible, not customers.

Next, Columbia states that “poor records” are the second most prevalent reason of excavation damage. Columbia should be required to remedy this problem. If remedying this issue can be shown to be an ordinary and necessary business expense, only then should it be addressed as part of the Utility’s next distribution rate case proceeding. As it now stands, however, there is no reason that it should require extraordinary deferral accounting.

Finally, Columbia cites “locate error” as the third most prevalent reason for excavation damage. To that extent, then the entity that erred in locating the facility should be held accountable for its error. The burden of funding the error should not fall on the customer. The ultimate responsibility for the accuracy and timeliness of all location services performed is a responsibility best placed on the Utility, its employees and its contractors.

Columbia also states that its “system is further complicated by the approximately 1.38 million customer-owned service lines” because “[h]istorically, when customers installed service lines, the company neither recorded the service lines’ attributes (*e.g.*,

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<sup>27</sup> Application at 10.

size, material, date of installation), nor mapped the service lines' location.”<sup>28</sup> This concern is likely overstated because Columbia has knowledge that the vast majority of customer-owned service lines run straight from the gas meter at the customer's house to the Utility's service line and curb shutoff valve near the street.

Therefore, again, Columbia has failed to demonstrate that the Damage Prevention Technology Initiative is necessary. The PUCO should reject the proposal.

**D. The Advanced Workforce Training Initiative Expenses Are Not Necessary And Should Not Be Approved For Deferral.**

Columbia states that it's third initiative, the Advanced Workforce Training Initiative, will “provide for the leasing or development of a new training center” that will train and “prepare gas operations employees for changing job requirements.”<sup>29</sup> But the expenses associated with constructing a training center and training employees about natural gas operations are general costs that should be reviewed and addressed in a general distribution rate base case.

In fact, the PUCO has never approved deferral of training and related expenses and eventual cost recovery through a Rider. In 2013, the Ohio Power Company filed an Application requesting, among other things, an additional Rider to hire new employees because, it claimed, it took five years of training before the employee was sufficiently ready for duty.<sup>30</sup> The PUCO Staff submitted prefiled testimony stating that the “[t]he proper recovery mechanism is through a distribution rate case” and that if “the Applicant

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<sup>28</sup> Application at 10.

<sup>29</sup> Application at 12.

<sup>30</sup> *In the Matter of the Application of 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. 13-2385-EL-SSO, Prefiled Testimony of Wm. Ross Willis, at 3-4, (May 20, 2014). (“Ohio Power Company Application”).

believes it has insufficient internal resources to implement its existing ‘suite of riders and mechanism’ in the future, then the Company could hire and begin training the labor forces it believes are necessary....”<sup>31</sup>

Similarly, in 2007 Vectren Energy Delivery of Ohio proposed an adjustment related to, among other things, training and aging workforce.<sup>32</sup> In the Staff Report, the PUCO Staff stated that it does not support the Applicant’s request for alternative regulation because they do not rise to the level of alternative regulation. The PUCO Staff further concluded that the requests were “regular construction and maintenance activities and as such should be subject to normal practices for test year expenses.”<sup>33</sup>

The PUCO should find that in this case, Columbia has failed to demonstrate that this program is necessary. Instead, any charges related to such activities should be addressed in a general distribution rate case. Hiring and training employees is a general expense that a utility must endure in the normal course of business. These are expenses that Columbia can control, predict and expect to incur, not an expense that warrants extraordinary treatment such as deferral accounting and collection through an alternative mechanism. Furthermore, Columbia has not shown that it is not currently collecting similar costs in existing base rates.

Therefore, the PUCO should reject Columbia’s Advanced Workforce Training Initiative.

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<sup>31</sup> *Ohio Power Company Application*, Prefiled Testimony of Wm. Ross Willis at 4 (May 20, 2014).

<sup>32</sup> *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval of an Alternative Rate Plan for a Distribution Replacement Rider to Recover the Costs of a Program for the Accelerated Replacement of Cast Iron Mains and Bare Steel Mains and Service Lines, a Sales Reconciliation Rider to Collect Differences between Actual and Approved Revenues, and Inclusion in Operating Expense of the Costs of Certain System Reliability Programs*, Case No. 07-1081-GA-ALT, (Dec. 20, 2013). (“Vectren Application”).

<sup>33</sup> *Vectren Application*, Staff Report at 10 (June 16, 2008).

**E. The Enhanced Public Awareness Initiative Expenses Should Not Be Approved For Deferral.**

Columbia states that its fourth and final initiative, the Enhanced Public Awareness Initiative, will sponsor public service announcements to encourage pipeline safety.<sup>34</sup> The Application states that Columbia currently spends \$343,000 annually on public outreach campaigns meant to improve pipeline safety.<sup>35</sup> Yet despite this spending, Columbia also states that in 2014, approximately 57% of all damages during excavations resulted from excavators failing to follow recommended pipeline safety practices.<sup>36</sup>

The PUCO should not approve this initiative. First, the Application neglects to explain why the current expenditures are insufficient. Neither does it explain how spending more money can be expected to address excavation incidents. In other words, the Utility has failed to show that the expenses under this initiative are necessary.

**F. The PUCO Has Generally Opposed Deferral Requests, And Columbia's Request; Therefore, Should Be Denied.**

Moreover, during a time where deferral requests have become all too commonplace, this PUCO has recently expressed a general opposition to the creation of deferrals, absent extraordinary circumstances. Specifically, this PUCO has stated:

Further, **although this Commission is generally opposed to the creation of deferrals**, the extraordinary circumstances presented before us, which allow for AEP-Ohio to fully participate in the market in two years and nine months as opposed to five years, necessitate that we remain flexible and utilize a deferral to ensure we reach our finish line of a fully-established competitive electric market.<sup>37</sup>

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<sup>34</sup> Application at 11.

<sup>35</sup> Application at 15.

<sup>36</sup> Application at 16.

<sup>37</sup> *In the Matter of the Application of Columbus Southern 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) (Emphasis added).



After several years of silence, Columbia now seeks to defer pipeline safety expenses, and charge customers at some point in the future for these expenditures. But here the Utility has not supported its deferral request with an explanation of exigent circumstances. Nor has it showed that there is good reason why the expenses should be entitled to special deferral treatment. The deferral request should, therefore, be denied.

#### **IV. CONCLUSION**

The PUCO should reject Columbia's Application in this case. The expenses sought to be deferred are not necessary. Moreover, there are no exigent circumstances or good reasons to allow the extraordinary deferral treatment.

Otherwise, if the deferrals are approved, the Utility's next step will be to seek to collect these costs from customers. The PUCO should act now to prevent a future request for unnecessary and unreasonable expenses to be collected from customers.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of these *Comments* have been served on the persons stated below *via* electronic transmission, this 17<sup>th</sup> day of November 2014.

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