

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of :
Columbia Gas of Ohio, Inc. for Approval : Case No. 16-2422-GA-ALT
of an Alternative Form of Regulation :

**REPLY BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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INTRODUCTION

The Stipulation presented in this case enhances the benefits to rate payers identified in Columbia Gas of Ohio, Inc.'s (Columbia or the Company) Application and addresses the concerns raised by the Staff of the Public Utilities Commission of Ohio (Staff) in this proceeding. The Stipulation represents compromises by Columbia, the Ohio Partners for Affordable Energy (OPAE) and the Staff and provides for a balanced outcome for Columbia customers. The signatory parties recommend that the Commission approve the Stipulation.

DISCUSSION

I. The Stipulation meets the Three-Part Test for reasonableness.

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?

Columbia, OPAE, and the Staff respectfully submit that the Stipulation here satisfies the reasonableness criteria, and that the evidence of record supports and justifies a finding that its terms are just and reasonable.

A. Serious Bargaining

Despite OCC's arguments to the contrary,¹ Columbia, Staff and the parties engaged in serious negotiations to produce the Stipulation and various settlement positions and proposals that were considered and discussed.² The Stipulation represents a comprehensive compromise of the issues. The Stipulation is the product of an open process in which all parties were represented by able counsel and technical experts.³ Each party to the Stipulation regularly participates in Commission proceedings and other regulatory matters, and each party was represented by experienced and competent counsel. A broad range of interests is represented by the parties including Columbia,

¹ OCC Initial Brief at 10-13.

² Columbia Ex. 5 (Thompson Supplemental Testimony) at 3-4.

³ *Id.*

Staff, and OPAE. In addition, IEU-Ohio, which represents the interests of industrial customers, does not oppose the Stipulation.⁴

The Signatory Parties had differing positions concerning the maximum Rider IRP SGS Class rate, as well as the minimum threshold for O&M savings, both of which this Stipulation resolves.⁵ The Commission does not require unanimous stipulations and no one party possesses a veto over stipulations.⁶ The Stipulation represents a comprehensive, reasonable resolution of the issues in this case by informed parties with diverse interests.

B. Public Interest

The benefits of the proposed Stipulation are large and broad. The Stipulation will promote safety and reliability, enhance customer service, and reduce the financial impact on customers.⁷ In approving Columbia's past Infrastructure Replacement Programs (IRPs), the Commission has repeatedly found that the program promotes the public interest.⁸ The Stipulation continues Columbia's Accelerated Mains Replacement

⁴ *Id.* at 3.

⁵ *Id.* at 4.

⁶ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of Tariffs to Recover Through an Automatic Adjustment Clause Costs Associated with the Establishment of an Infrastructure Replacement Program and for Approval of Certain Accounting Treatment*, Case No. 07-478-GA-UNC, (Opinion and Order at 32) (Apr. 9, 2008).

⁷ Columbia Ex. 5 (Thompson Supplemental Testimony) at 4.

⁸ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of Tariffs to Recover Through an Automatic Adjustment Clause Costs Associated with the Establishment of an Infrastructure Replacement Program and for Approval of Certain Accounting Treatment*, Case No. 07-478-GA-UNC, (Opinion and Order at 34-35) (Apr. 9, 2008); *In the Matter of the Application of Columbia Gas of Ohio,*

Program (AMRP) including the Hazardous Customer Service Line (HCSL) Program.⁹

The Stipulation:

- allows Columbia to continue to implement its systematic replacement strategy, which targets the identification, selection, and replacement of this pipe with high relative risk.¹⁰
- allows Columbia, by extending the current AMRP, to coordinate the replacement of this pipe in advance of state or municipal construction projects, which eliminates concerns over the intrusive maintenance efforts that Columbia would otherwise have to take in order to repair leaks and maintain an aging natural gas system¹¹; and
- allows Columbia to continue to maintain responsibility for all maintenance, repair, and replacement of customer-owned service lines that have been determined by Columbia to present an existing or probable hazard to persons or property based on severity or location.¹²

The Stipulation also enhances customer service. With the accelerated replacement of aging infrastructure, Columbia can reduce customer outages due to leaks¹³ and, under

Inc. for Approval of an Alternative Form of Regulation and for a Change in its Rates and Charges, Case No. 08- 0072-GA-AIR et al., (Opinion and Order at 13-15, 26) (Dec. 3, 2008).

⁹ Columbia Ex. 5 (Thompson Supplemental Testimony) at 4.

¹⁰ *Id.* at 5.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

the HCSL Program, Columbia is able to quickly and efficiently repair customer service lines and relight customer appliances.¹⁴ Also, with the uprating of main lines from low to medium pressure, Columbia is able to further increase the reliability of its system due to less ground water being able to infiltrate its facilities.¹⁵ Finally, the Stipulation provides for a reduction from Columbia's proposed maximum SGS Class rate.¹⁶

Again, the Stipulation is to be evaluated as a package. The package here provides significant benefits to customers. Staff asks that the Commission find that the Stipulation, as a whole, benefits the public interest.

C. The Stipulation does not violate any important regulatory principle or practice, rather it promotes public policy.

The final prong of the Commission's three-part test is passed, as the Stipulation does not violate any important regulatory principle or practice. The terms of the Stipulation represent a compromise of the Signatory Parties. None of the individual provisions of the Stipulation is inconsistent with or violates any important Commission principle or practice.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

II. OCC Objections

The Ohio Consumers' Counsel (OCC) has submitted testimony challenging aspects of the Stipulation. These objections have no merit. They will be considered in the following sections, divided by issue.

A. **The stipulated IRP cost increases and rate cap increases are reasonable.**

The Stipulation proposes reasonable annual increases of the monthly rate cap for 2018-2022 period. The increases do not create rate shock as argued by OCC.¹⁷ In fact, the OCC acknowledges that if the Stipulation's proposed IRP Rider rate caps are adopted, customers would only pay a maximum of \$0.39 per month more than if the current IRP cap increases were maintained over the 2016-2018 time period.¹⁸ While every customer penny is important and no doubt valuable to customers, a potential \$0.39 per month increase over a two-year period hardly constitutes rate shock. Rather, Columbia has thoroughly demonstrated the factors driving the Stipulation's higher annual Rider IRP caps: demand for underground facility camera crews, demand for natural gas qualified construction crews and resources, and expiration of existing construction contracts.¹⁹

For these reasons, the stipulated IRP cost increases and rate cap increases are reasonable.

¹⁷ OCC Initial Brief at 46.

¹⁸ *Id.*

¹⁹ Columbia Ex. 2 (Ayers Direct at 5-9).

B. The agreed-upon O&M savings for customers are reasonable

Despite OCC's arguments to the contrary, the minimum O&M savings recommended in the Stipulation are reasonable. Columbia recommended keeping the minimum O&M savings at the \$1.25 million per year minimum savings amount that was approved in the 2011 IRP Case.²⁰ Staff advocated a formal review of Columbia's reported O&M savings.²¹ Staff also expressed concern that Columbia's annual O&M savings had not attained the levels that other utilities achieved.²² In lieu of formal review, the signatory parties agreed to increase in the minimum O&M savings. Furthermore, customers are also guaranteed financial benefits pursuant to the floor set by the Stipulation's O&M savings provision, which provides for a minimum level of savings higher than that approved by the Commission in its 2012 Order.²³ The Stipulation's O&M savings are reasonable and benefit customers.

C. The non-priority pipeline replacement is reasonable.

OCC argues that non-priority pipeline replacement provides no benefit to customers and is unreasonable.²⁴ The order in the 2011 IRP Case, however, allows Columbia to address non-priority pipeline replacement, under the IRP, while imposing

²⁰ *Id.* at 4.

²¹ Staff Ex. 2 (Staff Report at 8-9).

²² *Id.* at 9.

²³ Joint Ex. 1 at 3; *see In re Application of Columbia Gas of Ohio, Inc., for Approval of an Alternative Form of Regulation*, Case No. 11-5515-GA-ALT, (Opinion and Order at 7-8) (November 28, 2012).

²⁴ OCC initial Brief at 26-28, 48.

reasonable conditions and limitations to ensure that the primary focus of the IRP is replacing priority pipe.²⁵ Columbia's Application and the Stipulation here propose to keep the same conditions and limitations. Nothing has changed. Dominion East Ohio's (Dominion) and Vectren Energy Delivery of Ohio, Inc.'s (Vectren) similar accelerated infrastructure replacement programs include similar authority to replace non-priority pipe under similar conditions and limitations. Similarly, Duke Energy Ohio's (Duke) AMRP program included had similar provisions with similar limitations prior to completion in 2015. Therefore, the non-priority pipeline replacement in the Stipulation is reasonable

D. The Hazardous Customer Service Line Replacement (HCSL) Program is reasonable.

In the 2007 case, the Commission approved Columbia's responsibility for replacing prone-to-failure risers and maintaining, repairing, and replacing hazardous customer service lines.²⁶ The Commission recognized that "service line leaks * * * can present significant safety hazards and * * * have the potential to cause catastrophic damage to the customer's property or neighboring properties."²⁷ The Commission further found that "allowing Columbia to take responsibility for the repair of * * * hazardous customer service lines" would enhance public safety, because it would "allow Columbia, as the

²⁵ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation*, Case No. 11-5515-GA-ALT (2011 IRP Case) (Opinion and Order) (Nov. 28, 2012).

²⁶ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of Tariffs to Recover Through an Automatic Adjustment Clause Costs Associated with the Establishment of an Infrastructure Replacement Program and for Approval of Certain Accounting Treatment*, Case No. 07-478-GA-UNC (2007 IRP Case) (Opinion and Order) (Apr. 9, 2008).

²⁷ *Id.* at 29.

employer or hirer of independent contractors, to control[] more effectively[] the work product of the plumbers making repairs to the system.”²⁸ The Supreme Court of Ohio affirmed that decision and stated that “[t]he record support[ed] the [C]ommission’s determination that service lines * * * present safety issues.”²⁹ Furthermore, under Columbia’s approved tariff, Columbia also has the responsibility to maintain, repair, and replace customer-owned service lines deemed to present an existing or probable hazard to persons or property or require a scheduled repair or replacement based upon severity or location.³⁰

OCC believes that the HCSL program should not be reauthorized in this case.³¹ OCC’s rationale is tied to the Commission’s reasons for denying Duke’s application to replace non-leaking customer service lines over a 10-year period (termed Accelerated Service Line Replacement Program or ASLRP) in Case No. 14-1622-GA-ALT.³² Columbia’s HCSL program, however, is distinguishable from Duke’s application. Duke’s ASLRP calls for the systematic and accelerated replacement of non-leaking metallic customer service lines³³, while Columbia replaces leaking and non-leaking metallic service lines tied to main lines that it replaces under its AMRP. Columbia

²⁸ *Id.* at 34-35.

²⁹ *Util. Serv. Partners v. PUC*, 124 Ohio St. 3d 284, 2009-Ohio-6764, ¶¶ 26-27 (2009).

³⁰ Columbia Ex. 4. (Thompson Direct Testimony) at 3.

³¹ OCC Initial Brief at 13-22.

³² *Id.* at 14.

³³ *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of an Alternate Rate Plan Pursuant to R.C. 4929.05 for an Accelerated Service Line Replacement Program, Case No. 14-1622-GA-ALT* (Opinion and Order) (May 17, 2017).

replaces customer service lines under its HCSL program when they leak or if its technicians discover an immediate probable hazardous condition. This is the same process that the Commission approved and that is currently in place for Dominion and Vectren and was in place for Duke prior to completing its AMRP in 2015.

No evidence exists that Columbia is systematically replacing non-leaking customer service lines on an accelerated basis in this case. To the extent that OCC questions Columbia's records that customer service lines replaced under the HCSL program were leaking or the costs for such replacements, those topics can be reviewed and challenged during the IRP annual review.

E. Cost studies are not needed.

OCC argues that Columbia's IRP "cost-per-leak-avoided" is very high, thus demonstrating that the IRP is not being implemented efficiently and effectively.³⁴ To remedy this alleged inefficiency and ineffectiveness, OCC believes that a collaborative study or third-party audit of Columbia's practices by Staff or an independent auditor should be undertaken.³⁵ Columbia's IRP, however, has included a process whereby Columbia files an application each year for authority to recover the prior year IRP investments. This process provides for a Staff investigation, intervenor participation (including interrogatories), and Staff and intervenor comments and recommendations to the Commission. All aspects of Columbia's investments, including costs, can be

³⁴ OCC Initial Brief at 28-31.

³⁵ *Id.* at 30.

investigated during these annual reviews. Intervenors such as OCC are not precluded from employing outside experts to conduct such reviews. Columbia's Application and the Stipulation recommend keeping the annual review process unchanged. Any additional studies would be unnecessarily duplicative.

F. The proper place to set Columbia's rate of return (ROR) is in a base rate case.

OCC argues that the rate cap is unreasonable because of the 10.95% ROR.³⁶ The proper place, however, to set a utility's ROR is during a base rate case, when all factors that influence what the proper ROR should be can be reviewed simultaneously. In Staff's view, it would be unwise and unwieldy to have a utility have a different (and multiple) RORs for each of its individual programs. The Commission appears to have endorsed this view for gas companies' accelerated infrastructure replacement programs when it reauthorized Columbia's IRP in the 2011 IRP Case; Dominion's Pipeline Infrastructure Replacement (PIR) program in Case No. 11-2401-GA-ALT and again in Case No. 15-362-GA-ALT; and Vectren's Distribution Replacement Rider (DRR) program in Case No. 13-1571-GA-ALT, each time keeping each company's ROR that same as was approved in its most recent base rate case.

³⁶

OCC Initial Brief at 32-38.

CONCLUSION

The Stipulation meets all prongs of the three-part test for determining the reasonableness of the Stipulation and OCC's arguments are unpersuasive. Therefore, the Commission should adopt the Stipulation as its order in this case.

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PROOF OF SERVICE

I hereby certify that a true copy of the foregoing Reply Brief submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by regular U.S. mail, postage prepaid, hand-delivered, and/or electronic mail upon the following parties of record, this 7th day of November, 2017.

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