THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF COLUMBIA GAS OF OHIO, INC. FOR AN ADJUSTMENT TO RIDER IRP AND RIDER DSM RATES.	**CASE NO. 19-1940-GA-RDR**

OPINION AND ORDER

Entered in the Journal on December 2, 2020

I. SUMMARY

{¶ 1} The Commission approves Columbia Gas of Ohio, Inc.'s application to adjust its demand side management rider, subject to Staff's recommendation.

II. PROCEDURAL HISTORY

{¶ 2} Columbia Gas of Ohio, Inc. (Columbia or Company) is a natural gas company, as defined in R.C. 4905.03, and a public utility, as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of the Commission pursuant to R.C. 4905.04, 4905.05, and 4905.06.

{¶ 3} R.C. 4929.11 provides that the Commission may allow any automatic adjustment mechanism or device in a natural gas company's rate schedules that allows a natural gas company's rates or charges for a regulated service or goods to fluctuate automatically in accordance with changes in a specified cost or costs.

{¶ 4} In *In re Columbia Gas of Ohio, Inc.*, Case No. 07-478-GA-UNC, et al., Opinion and Order (Apr. 9, 2008), the Commission approved an amended stipulation that, among other things, established an infrastructure replacement program (IRP) rider for Columbia. The purpose of the rider was to recover expenditures associated with the Company's replacement of risers that were identified as "prone to fail" and costs associated with customer service lines with potentially hazardous leaks. The stipulation provided that Columbia would file annual applications supporting proposed adjustments to its rates. Staff would review the proposed rates and report on the reasonableness of the proposed rates.

{¶ 5} In *In re Columbia Gas of Ohio, Inc.*, Case No. 08-833-GA-UNC (*DSM Case*), Finding and Order (July 23, 2008), the Commission approved Columbia's application to

implement specific demand side management (DSM) programs to be recovered through a DSM rider (Rider DSM). Rider DSM allows for the recovery of costs for several programs aimed at conservation and the reduction of customer bills.

{¶ 6} In *In re Columbia Gas of Ohio, Inc.*, Case No. 08-72-GA-AIR, et al. (*Columbia Rate Case*), Opinion and Order (Dec. 3, 2008), the Commission approved a stipulation that, among other things, expanded Rider IRP to include two additional components: accelerated mains replacement program (AMRP) and automated meter reading devices (AMRD). The purpose of the AMRP was to replace approximately 3,770 miles of bare steel pipe, 280 miles of cast iron/wrought iron pipe, and approximately 360,000 steel service lines over a period of 25 years. The AMRD allows for the recovery of costs for the installation of AMRD on all residential and commercial meters served by Columbia over a five-year period.

{¶ 7} In addition to expanding the scope of Columbia's Rider IRP, the *Columbia Rate Case* allowed Columbia to recover costs for programs approved in the *DSM Case*. The stipulation approved in the *Columbia Rate Case* provides that the procedure for adjusting Rider DSM be identical to the filing procedure for adjusting Rider IRP. Annually, by November 30, Columbia must file a prefiling notice to implement adjustments to the riders. Subsequently, Columbia must file its application and an update of actual year-end data by the following February 28 of each year. Staff and other parties may then file comments. Columbia has until March 31 of each year to resolve the issues raised in the comments. If the issues raised in the comments are not resolved, the stipulation requires that a hearing be held. The goal is that the proposed amendments to the riders become effective on May 1 of each year.

{¶ 8} In *In re Columbia Gas of Ohio, Inc.*, Case No. 11-5515-GA-ALT, Opinion and Order (Nov. 28, 2012), the Commission approved a stipulation, which, among other things, continued the IRP for an additional five years, for the period January 1, 2013, through December 31, 2017. Subsequently, the Commission approved the continuation of

Columbia's IRP for the period of January 1, 2018, through December 31, 2022. *In re Columbia Gas of Ohio, Inc.*, Case No. 16-2422-GA-ALT, Opinion and Order (Jan. 31, 2018).

{¶ 9} Similarly, an extension of Columbia's DSM program was approved by the Commission for the period of January 1, 2017, through December 31, 2022. *In re Columbia Gas of Ohio, Inc.*, Case No. 16-1309-GA-UNC, et al. (*DSM Extension Case*), Opinion and Order (Dec. 21, 2016).

{¶ 10} In *In re Columbia Gas of Ohio, Inc.*, Case No. 18-1701-GA-RDR, Opinion and Order (Apr. 24, 2019), the Commission approved a stipulation recommending that Columbia's previous application to adjust its Rider IRP and Rider DSM rates be accepted and approved.

{¶ 11} In accordance with the provisions of the stipulation in the *Columbia Rate Case*, Columbia filed on November 26, 2019, in the above-captioned case, its notice of intent to file an application to adjust Rider IRP and Rider DSM rates to recover costs incurred during 2019.

{¶ 12} On February 28, 2020, Columbia filed its application to adjust the rates of Rider IRP and Rider DSM. The application is based on a test year beginning January 1, 2019, and ending December 31, 2019, with a date certain of December 31, 2019, for property valuation.

{¶ 13} Also on February 28, 2020, Columbia filed direct testimony in support of its application. The testimony of Melissa L. Thompson (Ms. Thompson or Thompson), Director of Regulatory Policy, addresses the reasonableness of Columbia's request for the proposed rate adjustments in Rider IRP. The testimony of Benjamin A. Freiman, employed by Columbia as a Manager of Regulatory Affairs, addresses the reasonableness of Columbia's request for the proposed rate adjustments in Rider IRP, providing a detailed explanation of the schedules filed by Columbia in support of the proposed adjustments. The testimony of Andrew S. Metz (Mr. Metz or Metz), employed by Columbia as a Financial and Analytics Lead, purports to support the reasonableness of Columbia's request for the proposed rate

adjustments in Rider DSM. He explains the DSM programs and the schedules that support the proposed adjustments. Eric Slowbe is employed by Columbia as a Principal Engineer. His testimony explains the management, engineering, and construction practices of Columbia as they relate to the various components of Rider IRP included in this filing for the 2019 calendar year. His testimony also addresses Columbia's performance with respect to the AMRP and hazardous service line replacement program. The testimony of Scott Pigg (Mr. Pigg or Pigg), a consultant hired by Columbia, addresses the shared savings incentive and the reasonableness of Columbia's request for shared savings in its Rider DSM rate.

{¶ 14} By Entry issued March 6, 2020, the attorney examiner set a procedural schedule, ordering Staff and any intervenors to file comments on the application by March 20, 2020. The March 6, 2020 Entry also required that Columbia file a statement by March 27, 2020, informing the Commission whether the issues raised in the comments were resolved. Expert testimony was due to be filed by March 30, 2020. In the event that any issue raised in the comments had not been resolved, the Entry set the hearing in this matter for April 1, 2020.

{¶ 15} The Ohio Consumers' Counsel (OCC), Environmental Law & Policy Center (ELPC), Ohio Partners for Affordable Energy (OPAE), Interstate Gas Supply, Inc. (IGS), and Suburban Natural Gas Company (Suburban) filed timely motions to intervene by March 20, 2020, and intervention for OCC, ELPC, OPAE, IGS, and Suburban was granted by the attorney examiner by Entry issued on April 1, 2020.

{¶ 16} On March 20, 2020, Staff, OCC, and Suburban submitted their respective comments and recommendations in this docket. Comments were not filed by ELPC, IGS, or OPAE.

{¶ 17} On March 26, 2020, Columbia filed a motion to amend the procedural schedule. According to Columbia, the parties requested more time to continue negotiations and proposed continuing the procedural schedule by one week, requesting April 6, 2020, as the deadline for the parties and Staff to file expert testimony; April 7, 2020, at 10:00 a.m., as

the deadline for those parties that enter into a stipulation resolving some or all of the issues in the case to file the stipulation with the Commission; and April 8, 2020, as the date the hearing shall commence.

{¶ 18} By Entry issued on March 30, 2020, the attorney examiner granted the motion, in part, and denied the motion, in part. The attorney examiner granted relief from the already established procedural schedule and set April 6, 2020, as the deadline for the parties and Staff to file expert testimony and April 7, 2020, by 10:00 a.m., as the deadline for parties to file a stipulation, if applicable. However, in light of Governor DeWine's Executive Order 2020-01D issued on March 9, 2020, declaring a state of emergency in response to the respiratory disease COVID-19 and the Director of the Ohio Department of Health's March 22, 2020 Stay at Home Order, the attorney examiner found that an in-person hearing should not be held on April 8, 2020, and that the need for a hearing, and the timing of that hearing, would be addressed at a later time.

{¶ 19} On March 31, 2020, Columbia filed a motion to bifurcate the proceeding and to amend the procedural schedule. First, Columbia noted that no parties opposed the proposed Rider IRP rates in the filed comments, and Staff recommended approval of the Rider IRP rates. Columbia recommended that the Commission approve its proposed Rider IRP rates to allow Columbia to implement these rates by unit 1 of May 2020 billing.

{¶ 20} Furthermore, Columbia requested a modification of the procedural schedule to address the Rider DSM adjustment and other Rider DSM programmatic issues raised by the intervenors in this proceeding. Columbia set forth the proposed procedural schedule: April 20, 2020, as the deadline for parties and Staff to file expert testimony and all other evidence; and May 4, 2020, as the deadline for Columbia, parties, and Staff to file briefs. Columbia indicated that all parties to the proceeding agreed to no additional discovery in this case, to waive cross-examination of witnesses, and to waive the right to file motions to strike expert testimony filed on April 20, 2020. Columbia stated that the process described above would allow the case to proceed without an in-person hearing, consistent with

directives issued in response to the COVID-19 emergency, while still respecting the parties' due process rights. According to Columbia, if the Commission adopted the proposed procedural schedule, all parties agreed that Columbia's current Rider DSM rate of $0.1957 per thousand cubic feet (Mcf) would remain in place until the Commission issued its order concerning the Rider DSM rate, at which point Columbia will reflect in its rider reconciliation in next year's filing the over or under collection due to the delay in implementing the Commission-approved rate.

{¶ 21} By Entry issued on April 1, 2020, the attorney examiner granted Columbia's motion to bifurcate the proceeding and to amend the procedural schedule. The attorney examiner indicated that a decision regarding Rider IRP rates would proceed to the Commission. The attorney examiner also acknowledged that the parties agreed that Columbia's current Rider DSM rate of $0.1957 per Mcf would remain in place until the Commission has considered the testimony and briefs to be filed and issues a separate decision concerning the Rider DSM rate. Further, the attorney examiner adopted the following procedural schedule regarding Rider DSM: April 20, 2020, as the deadline for parties and Staff to file expert testimony and all other evidence; and May 4, 2020, as the deadline for Columbia, parties, and Staff to file briefs.

{¶ 22} On April 20, 2020, OCC filed the testimony of Kenneth W. Costello (Mr. Costello or Costello), a regulatory economist/independent consultant; the testimony of Colleen Shutrump (Ms. Shutrump or Shutrump), an Energy Resource Planning Advisor employed by OCC; and the testimony of James D. Williams, a Utility Consumer Policy Expert employed by OCC. Suburban filed the testimony of David L. Pemberton, Sr. (Mr. Pemberton or Pemberton), a director, Chief Executive Officer, and Chairman of the Board for Suburban. OPAE filed the testimony of Dave C. Rinebolt (Mr. Rinebolt or Rinebolt), the Executive Director of OPAE. And, ELPC filed Columbia's responses to interrogatories and

requests for production of documents propounded by ELPC.[1]

{¶ 23} On April 22, 2020, the Commission issued its Finding and Order approving Columbia's application to adjust its Rider IRP, subject to Staff's recommendation.

{¶ 24} Consistent with the protective agreement executed between Columbia and OCC, OCC filed motions for protective treatment on April 20, 2020, and May 4, 2020, in association with the filing of its testimony and brief.

{¶ 25} On April 24, 2020, Columbia filed a motion for protective treatment, and, on April 29, 2020, OCC filed a memorandum contra Columbia's motion.

{¶ 26} On May 4, 2020, Columbia, OCC, OPAE, ELPC, Suburban, and ELPC filed their briefs. On the same date, IGS filed a letter notifying the Commission that it will not be filing a brief in this matter.

{¶ 27} Pursuant to the April 1, 2020 Entry and the April 22, 2020 Finding and Order, this Opinion and Order addresses Columbia's application for adjustment to its Rider DSM rate.

III. DISCUSSION

A. Summary of Comments for Rider DSM

{¶ 28} On March 20, 2020, OCC and Suburban filed comments in this case concerning Rider DSM. These comments align with each party's position articulated in their filed briefs,

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1 ELPC Interrogatory Set 1 No. 1 (INT-1-1, Attachments A-E); ELPC Interrogatory Set 1 No. 2 (INT-1-2, Attachments A-F); ELPC Interrogatory Set 1 No. 3 (INT-1-3, Attachments A-B); ELPC Interrogatory Set 1 No. 4 (INT-1-4, Attachments A-B); ELPC Interrogatory Set 1 No. 5 (INT-1-5); ELPC Interrogatory Set 1 No. 6 (INT-1-6); ELPC Interrogatory Set 1 No. 7 (INT-1-7); ELPC Interrogatory Set 1 No. 8 (INT-1-8); ELPC Interrogatory Set 1 No. 9 (INT-1-9, Attachment A); ELPC Request for Production of Documents Set 1 No. 1 (RPD-1-1, Attachments A-D); ELPC Request for Production of Documents Set 1 No. 2 (RPD-1-2); ELPC Request for Production of Documents Set 1 No. 3 (RPD-1-3); ELPC Request for Production of Documents Set 1 No. 4 (RPD-1-4).

which are more fully examined below.

{¶ 29} In addition to reviewing Columbia's application to adjust its Rider IRP rates, Staff also reviewed Columbia's application to adjust its Rider DSM. Rider DSM recovers the costs related to the implementation of a DSM program that enables customers to reduce their bills through various conservation programs. After its review of Columbia's DSM program schedules, actual expenses, revenues, over/under collections, and shared savings data, Staff found that Columbia accurately calculated its proposed Rider DSM rate; however, Staff recommends that, due to the timing of the February 28, 2020 filing, Staff audit the actual DSM expenses for October through December 2019 during the 2020 annual audit to verify accuracy. (Staff Comments at 12-14.) Current and proposed rates are summarized below:

Current DSM Rate (per Mcf)	Proposed DSM Rate (per Mcf)	Proposed Increase
$0.1957	$0.2013	$0.0056

(Application, Schedule DSM-6.)

B. OCC's Position

{¶ 30} In its brief, OCC prefaces its arguments by asserting that the COVID-19 crisis has exacerbated the financial distress and poverty experienced by thousands of Ohioans who already struggle to pay their utility bills. More specifically, OCC witness Williams testified that, before the coronavirus, approximately 14 percent of Ohioans lived in poverty, with 14.5 percent of Ohioans having experienced food insecurity. OCC witness Shutrump further testified that, due to the coronavirus outbreak and the measures taken to combat it, well over 100,000 Ohioans have filed for unemployment claims as of the week ending March 21, 2020, a significant increase compared to the previous week's filings. Consequently, OCC argues that the struggle for many Ohioans to pay their utility bills has increased and will

continue during the crisis. (Williams at 7-8; Shutrump at 7; OCC Br. at 1-3.)

1. Repurpose Weatherization Funds for Utility Bill Payment Assistance

{¶ 31} OCC argues that ratepayer charges allocated towards Columbia's energy efficiency programs, specifically those funds earmarked for Columbia's weatherization program for low-income customers, WarmChoice, should be repurposed for utility bill payment assistance. According to OCC, this request is even more pertinent due to the recent financial strain experienced by people as a result of the COVID-19 crisis. OCC claims that it can take years, if ever, for customers to obtain bill savings resulting from weatherization (Williams at 5; OCC Br. at 8). Pointing to Columbia witness Metz's testimony, OCC states that Columbia's weatherization program served approximately 2,000 customers in 2019 and, after averaging the WarmChoice program's cost of $11,406,407 in 2019 as reported in Schedule DSM-2 of Columbia's application, the per household cost of the program equates to nearly $6,000 per home (Metz at 3; OCC Br. at 8). Instead of benefitting approximately 2,000 customers per year, OCC recommends repurposing the money earmarked for weatherization, approximately $14 million per year for 2020 through 2022, for use as funds for bill payment assistance instead (Williams at 5-6; OCC Br. at 7-9). OCC argues that the regulatory principle of equity supports a finding that repurposes this earmarked money towards bill assistance for 80,000 of Columbia's low-income residential customers, thereby accomplishing the greatest good in the current circumstances (Williams at 3; Costello at 4; OCC Br. at 8-9). In support of using repurposed funds for a new bill assistance program, OCC offered testimony of Mr. Williams, an expert in protections for low-income and non-low-income customers, bill affordability, and utility bill payment assistance programs (Williams at 1-2, Attachment JDW-1; OCC Br. at 9-10).

{¶ 32} According to OCC's requested bill payment assistance program, customers whose income is up to 300 percent of the Federal Poverty Guidelines (FPG) are eligible for the program on a first-come, first-served basis with different caps in monetary assistance for Percentage of Income Payment Plan (PIPP) and non-PIPP customers. Customers would be

eligible for bill payment assistance once per year, and customers who participate in other bill assistance programs, such as the Home Energy Assistance Plan (HEAP), PIPP, etc., are still eligible to participate in the proposed program. Unlike HEAP, however, customers can participate in the proposed program even if the customer has not received a disconnection notice. OCC recommends that Columbia work with other parties and OCC to develop a system to distribute the funds, which OCC suggests could include distributing funds directly to consumers through social service agencies, as Ohio Power Company d/b/a AEP Ohio (AEP Ohio) does through its Dollar Energy Fund and as FirstEnergy did through coordination and agreement with social service agency groups during the 2009 Great Recession, or possibly distribute funds to consumers through a third-party, like Dollar Energy. OCC further suggests that Staff operate in a monitoring role to assist in coordinating activities with the Commission, reviewing progress in distributing funds, participating in outreach to inform consumers, and monitoring the overall effect that the fund has on consumers. OCC asserts that Columbia's charges to customers for the weatherization program should be repurposed for this bill assistance program and that Columbia should defer collection of its costs incurred in 2019 for the weatherization program until after the COVID-19 crisis. OCC then posits that any repurposed funds not used by Columbia through the bill assistance program could be used to offset Columbia's uncollectible expense rider for the purpose of reducing the amount all customers pay when utility bills remain unpaid. (Williams at 6-7, 22-27, 29; OCC Br. at 10-11.)

{¶ 33} OCC further argues that the proposed bill assistance program is necessary because, as compared to other existing assistance programs, there are many consumers who would qualify only for it, and these program-eligible consumers will need as many assistance programs as possible to help mitigate difficulties caused by the coronavirus. OCC notes that its proposal would be available to consumers with incomes up to 300 percent of the FPG, compared to federal programs that allow assistance to consumers making up to 175 percent of the FPG and Ohio's PIPP program that allows assistance to consumers making up to 150 percent of the FPG (Williams at 6, 20; OCC Br. at 12-13). OCC also asserts

that this program would be available year-round compared to the Commission's winter reconnect order. Further, while customers who already obtained a HEAP winter crisis payment cannot obtain a second payment to help mitigate against the coronavirus, customers would remain eligible under OCC's program (Williams at 11, 20, 23-24; OCC Br. at 12-13).

{¶ 34} OCC also contends that, since in-home visits and audits conducted pursuant to Columbia's energy efficiency programs were suspended by the March 20, 2020 Entry issued in *In re the Proper Procedures and Process for the Commission's Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC, Entry (Mar. 20, 2020), Columbia's weatherization money is sitting idle; therefore, the best use of the money would be to allocate it towards OCC's proposed payment assistance program. OCC also points to testimony provided by Staff in *In re the Application of Ohio Power Company*, Case No. 20-602-EL-UNC, et al., Staff Review and Recommendation (Apr. 15, 2020) at 3, where Staff recommended that AEP Ohio's proposal for a customer refund of $2.1 million to the Ohio Hospital Association to coordinate energy-related challenges for hospitals should be, instead, used to help residential customers. (Williams at 18, footnote 22; OCC Br. at 13-15.)

{¶ 35} OCC argues that Columbia's low-income weatherization program is costing customers a significant amount of money when subtracting the benefits of the program from the program's cost, making such use of money inappropriate for these precarious times (Shutrump at 17-18, Attachment CLS-4; OCC Br. at 15-16). Nevertheless, OCC claims that it is not advocating for the end of weatherization in Ohio, stating that substantial funding for weatherization would still be available even if OCC's proposal is implemented. OCC notes that Ohio, through a federal block grant that allows 15 percent allocation towards weatherization, has allocated more than $23 million for weatherization for fiscal year 2020 (Rinebolt at 18; OCC Br. at 16). OCC states that, in Am.Sub.H.B. No. 166, the Ohio General Assembly allowed the Ohio Development Services Agency (ODSA) to seek an increase that would allow 20 percent of HEAP funding to be used for weatherization, and, if such request

is granted by the U.S. Department of Health and Human Services, then an additional $7.7 million of consumers' HEAP funds will be allocated away from bill assistance to weatherization. OCC argues that this increase, coupled with Am.Sub.H.B. No. 6 allowing ODSA to increase 25 percent of the block grant funds towards weatherization, results in a potential increase in weatherization funds that exceeds the $14 million OCC is seeking to repurpose for bill payment assistance. (Williams at 28; OCC Br. at 17.)

{¶ 36} Since OCC ultimately advocates for the termination of the DSM program, Columbia argues that OCC's positions are outside the scope of the annual Rider DSM audit proceeding. Further, Columbia argues that the Commission should not substitute a bill payment assistance program for Columbia's WarmChoice low-income weatherization program. Columbia sets forth a brief history and description of Columbia's WarmChoice program, which has provided weatherization to over 70,000 customers since 1987. (Rinebolt at 12; Columbia Br. at 5.) Columbia notes that WarmChoice served 1,938 households through five community-based providers and their subcontractors. According to Columbia, the WarmChoice weatherization program results in significant energy bill savings, and the Commission has recognized the safety benefits of this weatherization program. *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 36. (Metz at 3; Rinebolt at 12; Columbia Br. at 6.)

{¶ 37} With regard to OCC's proposed bill payment assistance program, Columbia first argues that the testimony relied upon by OCC for such program is silent as to whether Columbia's 2019 DSM program costs were prudent and reasonable, the standard of review for this proceeding. Consequently, Columbia asserts that Mr. Williams' testimony should carry no weight. Columbia also notes that there are no pre-collected funds for repurposing and that Mr. Williams admits that this rider is backwards looking, meaning Columbia would not collect funds from customers until 2021. Further, $7.1 million of the cost for the WarmChoice program stems from Columbia's base rates, which are not at issue in this proceeding. (Rinebolt at 9; Williams at 29; Columbia Br. at 7.) Columbia also argues that OCC's proposed bill assistance program lacks many critical details. For example, among

other missing details, Mr. Williams' testimony does not address the information technology and mechanical implementation procedures and costs the bill assistance program would require of Columbia, does not offer a recommendation as to how the bill assistance program should be managed, and does not address how to take care of the roughly 150 employees who may lose their jobs from terminating the WarmChoice program. Additionally, Columbia asserts that the WarmChoice program was part of a carefully crafted settlement among the signatory parties and that the Commission approved the stipulation that, as a package, benefits ratepayers and the public interest. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 118. (Rinebolt at 14, 17-18; Williams at 19-26; Columbia Br. at 7-8.) Columbia further argues that providing assistance to low-income customers is a complex issue that requires well-designed policies offering a balanced approach to maximize benefits at minimum costs, which OCC's deficient assistance program fails to accomplish. Accordingly, Columbia asserts that this proceeding is not the right venue to attempt to impose such a complex solution, especially during such an uncertain time. (Rinebolt at 16; Columbia Br. at 8-9.)

{¶ 38} OPAE opposes OCC's bill assistance program proposal and supports the approval of Columbia's Rider DSM adjustment application (Shutrump at 4; OPAE Br. at 4-5, 9). OPAE argues that Columbia has already incurred the DSM program costs for 2019 and is entitled to recover expenses. Moreover, OPAE asserts that the proposed rider adjustment is small and that a delay in cost recovery adds to the carrying charges on the expenses, costing customers more for the DSM program. OPAE believes that OCC's arguments are nonsensical since reducing Columbia's customer charge or eliminating its Rider IRP would lead to a greater reduction in charges for customers compared to eliminating the DSM program. Also, OPAE points out that OCC's pleas regarding COVID-19 are not reconcilable with its arguments since eliminating Rider DSM would reduce customer bills beginning in mid-2021 and would put hundreds of people out of work. (Rinebolt at 14; OPAE Br. at 9-10.) With regard to OCC's position that Columbia's WarmChoice program should be repurposed for a low-income bill assistance program,

OPAE argues that, for many of Columbia's program-eligible customers, the proposal would result in a grant paying less than half of a month's winter heating bill. According to OPAE, OCC's arguments do not make energy affordable or address the safety issues and long-term health impacts of living in substandard housing. OPAE also details the availability of HEAP and other financial assistance programs during the pandemic and states that, contrary to OCC's claims, OPAE member agencies are already working with other community-based agencies to coordinate these benefits, noting that advocates are pushing to expand the statutory eligibility for HEAP at the federal level, which may provide additional options. According to OPAE, OCC's proposed billing assistance program outlines an approach to recruit a new network of nonprofits to receive applications which then would be forwarded to the utilities who would credit the accounts by hand. This approach, according to OPAE, would require hiring, training, telephones, computers, desks, and other items to implement, all of which require revenue that average local nonprofits lack. Furthermore, it would take months to set up a network serving Columbia's customer base of approximately 80,000 households. Considering the urgency of the problem, OCC believes that setting up a new network makes little sense. If anything, OPAE retorts, its agency network, which processed 407,000 clients last year along with reverifying several hundred thousand PIPP customers, would better handle the implementation of such a proposal. (OPAE Br. at 13-16.)

{¶ 39} Similar to Columbia's and OPAE's arguments, ELPC argues that eliminating the DSM program would not affect customer bills for a significant period of time (Metz at 3; ELPC Br. at 3). ELPC also argues that the Commission has opened separate dockets, including *In re the Motion of Columbia Gas of Ohio, Inc. to Suspend Certain Procedures and Process During the COVID-19 State of Emergency and Related Matters*, Case No. 20-637-GA-UNC (*Columbia's Emergency Docket*), to address unique problems stemming from the coronavirus pandemic, where, in contrast, this proceeding specifically addresses approval for Columbia's 2019 Rider DSM expenses. Therefore, according to ELPC, OCC's concerns are misplaced. Furthermore, the Commission approved an extension of Columbia's DSM program through 2022, with annual reviews to make minor adjustments to

underperforming programs. *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 23. ELPC asserts that proposing an entirely new bill payment assistance program is beyond the scope of a minor adjustment and would require a new rider. ELPC notes that it would not oppose consideration of testimony that convincingly showed that eliminating the DSM program would provide critical relief to customers, but OCC has failed to provide such testimony. (Rinebolt at 9; ELPC Br. at 3-4.) Specifically, ELPC argues that Mr. Williams' testimony supporting a new bill assistance program only offers a cursory explanation for how he arrived at certain figures, such as the number of customers the program could help, the estimates of the administrative costs, and eligibility thresholds (Williams at 6; ELPC Br. at 5-6). Additionally, repurposing these funds and removing the WarmChoice program would directly affect 150 jobs. According to the foregoing, ELPC asserts that the Commission should reject OCC's arguments on this issue. (Rinebolt at 14; ELPC Br. at 7-8.)

2. *Suspend Columbia's Non-Low-Income Programs and Charges to Customers for Those Programs*

{¶ 40} OCC asserts that Columbia's non-low-income energy efficiency programs should be ended or substantially limited for multiple reasons. OCC first notes that the coronavirus will exacerbate already existing financial difficulties for lower-income customers. According to OCC, lower-income customers spend approximately 20 percent of their income on energy needs, while customers with an above-median income spend approximately 5 percent on energy needs. (Shutrump at 4, 7-10, 11; OCC Br. at 18.) Pointing to the competitiveness of the energy efficiency programs and the degree of consumer participation in these programs, OCC also argues that non-low-income natural gas programs have achieved their objective (Shutrump at 5; Costello at KWC-2; OCC Br. at 18-19). OCC further argues that low natural gas prices reduce the value offered by utility-run energy efficiency programs and that these low prices should continue for years due to the shale boom (Shutrump at 5-6, 14; Costello at KWC-2; OCC Br. at 19). OCC asserts that four of Columbia's non-low-income energy efficiency programs, Home Performance Solutions,

Residential Energy Efficiency Education for Students, EPA Portfolio Manager, and Online Energy Audit, are not cost-effective. Further on this point, OCC argues that a substantial portion of projected benefits, especially the benefits of the Innovative Energy Solutions and Energy Design Solutions programs, are for non-residential customers, yet residential customers help pay for these programs even though they cannot participate in them. (Shutrump at 17, Attachment CLS-4 (CONFIDENTIAL); OCC Br. at 19-20.) OCC further notes that, according to Suburban, the rebates offered to homebuilders pursuant to Columbia's New Home Solutions program are used to unfairly compete with Suburban and expand Columbia's customer base (Pemberton at 5-7; OCC Br. at 20). Finally, OCC asserts that natural gas energy efficiency lacks the system-wide benefits for consumers, as compared to electric energy efficiency, and points to a Commission Staff member's testimony from 2006 in *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 05-1444-GA-UNC (*Vectren DSM Case*), purportedly supporting that conclusion (Costello at 4; OCC Br. at 20).

{¶ 41} Columbia contests OCC's request that the Commission eliminate Columbia's DSM program for non-low-income customers. Columbia first reiterates its argument that the individual non-low-income programs were part of a carefully crafted settlement among the signatory parties and the Commission found that the stipulation, as a package, benefits ratepayers and the public interest. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 118. (Columbia Br. at 9.) Next, Columbia asserts that OCC rehashes issues already addressed by the Commission in the *DSM Extension Case*. Columbia notes that OCC continues to criticize certain individual DSM programs, chiefly WarmChoice, Home Performance Solutions, Residential Energy Efficiency Education for Students, EPA Portfolio Manager, and Online Energy Audit, that the Commission approved. *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶¶ 36, 39. Columbia states that the Commission found some of the non-low-income programs provide benefits as part of the package approved in the stipulation regardless of their cost-effectiveness, noting these programs' value as an avenue to communicate with and educate the energy consumer and to encourage energy conservation. *DSM Extension Case* at ¶ 39. Columbia further argues

that the Commission has already addressed the issue raised by Ms. Shutrump regarding low natural gas prices potentially making Columbia's DSM program less cost-effective. (Shutrump at 13-15; Columbia Br. at 9-10.) According to Columbia, the Commission observed that, while current low natural gas prices would not likely incent customers to install or implement energy conservation measures, these measures should continuously be encouraged, considering customers may have more money to invest in these measures during lower-priced times. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 108. Moreover, the Commission noted that the measures provide long-term energy conservation benefits that may accrue over decades, and a period of low gas prices is the time to incentivize and encourage customers to participate in such programs. *DSM. Extension Case* at ¶ 108. Columbia warns that the volatile natural gas price market that led to the creation of the DSM program could return quickly, and the Commission has trumpeted the value of energy efficiency programs due to the historic volatility of natural gas commodity prices. *See In re the Application of Vectren Energy Delivery of Ohio, Inc.*, Case No. 18-298-GA-AIR, et al., Second Entry on Rehearing (Dec. 4, 2019) at ¶¶ 14-16. Finally, Columbia also takes issue with OCC's arguments regarding Columbia's shared savings incentive, which will be examined more fully below. Columbia asserts that the Commission should reject the above recycled arguments. (Costello at KWC-2; Columbia Br. at 10-11.)

{¶ 42} Columbia also argues that the Commission should reject OCC's arguments based on witness Costello's testimony supporting the elimination or scaling-down of the DSM program. Columbia points to the Commission's own words concerning energy efficiency programs for natural gas, which state that a well-designed energy efficiency program is consistent with Ohio's economic and energy policy objectives. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 126 (citing *In re the Application of The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 07-829-GA-AIR, et al., Opinion and Order (Oct. 15, 2008) at 22-23). Columbia asks the Commission to reject OCC's attempts to end Columbia's DSM program.

{¶ 43} OPAE responds to OCC's arguments by noting that the Commission has

previously rejected the Commission Staff member's testimony from 2006, which supported the conclusion that natural gas energy efficiency programs lack system-wide benefits for consumers, as compared to electric energy efficiency. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶¶ 107-108. OPAE notes that R.C. 4929.051 requires utilities to offer DSM programs prior to obtaining benefits of certain types of alternative regulation; that the voluntary programs like the DSM program are authorized under R.C. 4905.70; and that the state of Ohio's policies, under R.C. 4929.02(A)(4), (10), and (12), support DSM programs as beneficial to customers. (OPAE Br. at 5-6.) Addressing the testimony of OCC witness Costello, OPAE asserts that none of the testimony relates specifically to Columbia's DSM program but instead remains broadly focused on the effectiveness of energy efficiency programs. Further, OPAE believes that, since DSM programs are a service paid for by customers and received by them, Mr. Costello is mistaken when he refers to the portions of customer payments allocated towards the DSM program as subsidies. (Costello at 3; OPAE Br. at 6-7.) Next, OPAE asserts that the General Assembly and the Commission have determined that energy efficiency programs are part of the distribution function and are appropriate for the public good and benefits provided to all customers. (Costello at 4; OPAE Br. at 7.) Despite Mr. Costello's claim that customers do not benefit from such programs, OPAE notes that Columbia presented evidence showing that over 600,000 customers have been served by the programs in 2019 (Metz at 3-7; OPAE Br. at 7). OPAE also asserts that Mr. Costello failed to offer evidence supporting his position that customers have the necessary information to make rational decisions, which, as he claims, obviates the need for the DSM program. OPAE notes that Columbia uses a Technical Resource Manual to determine weatherization savings, and Columbia uses bill analysis to determine the actual effects of some programs. The Commission decided in the *DSM Extension Case* and the subsequent biannual proceedings that Columbia adequately demonstrated these programs' efficacy. (OPAE Br. at 8.) OPAE also contests OCC's claims that Columbia uses the incorrect discount rate, which will be examined below.

{¶ 44} Similar to Columbia's and OPAE's arguments, ELPC asserts that the Commission has previously touted the value of energy efficiency programs, even during times of low-priced natural gas, and has found Columbia's DSM program cost-effectiveness analysis reasonable. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶¶ 105-113; Second Entry on Rehearing (Apr. 10, 2019) at ¶ 46. ELPC, similar to OPAE's assertions above and in contrast to Ms. Shutrump's claims that the existence of DSM programs is not supported by law, also outlines the statutory support for DSM programs found in R.C. 4929.02(A)(12) and 4905.70 and points to the Commission underscoring such legislative directives in its approval of the DSM program. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 118. (Shutrump at 6; ELPC Br. at 5.) ELPC notes that OCC does not offer a clear cost-benefit analysis showing why ending the programs would help customers (Shutrump at 7-8; ELPC Br. at 6).

{¶ 45} ELPC next tackles OCC's assertions that non-low-income individual DSM programs have achieved their regulatory objectives, these objectives appearing to be the stimulation of a competitive market for energy efficiency products (Shutrump at 5; ELPC Br. at 6). ELPC notes that no evidence was provided to support Mr. Costello's claim that customers can invest in energy efficiency measures on their own accord without utility-run programs and that Mr. Costello failed to relate his claims to any facts related to Columbia's program (Costello at 5; ELPC Br. at 6-7). ELPC argues that this theory espoused by Mr. Costello based on an actor who consistently makes rational decisions regarding energy consumption is disputed by many economists, and the Commission has reasoned that these incentives, especially ones providing long-term energy benefits over decades, were necessary to encourage customers to implement energy conservation. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 108. ELPC asserts that eliminating Columbia's DSM program would hurt residential customers and undermine energy efficiency in Ohio. ELPC believes critical cost-effective energy efficiency programs should continue during the COVID-19 crisis and that maintaining temporarily suspended programs will not hurt customers because any underspending will be considered in next year's Rider DSM

adjustment. (ELPC Br. at 7-8.)

3. Shared Savings

{¶ 46} OCC next argues that the shared savings incentive, last approved pursuant to the joint stipulation adopted by the Commission in the *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 127, should be eliminated. OCC first notes that the shared savings program allows Columbia to charge customers for profits if the programs' benefits outweigh their cost. OCC further notes that Columbia claims that its 2019 program cost $29.6 million while providing benefits worth $34.2 million, resulting in $461,225 of utility profits to be charged to customers by Columbia, plus Columbia's taxes on the profits, for a total of $583,827. (Columbia's Application at Schedule DSM-5; OCC Br. at 21.) OCC asserts that utilities overstate energy savings from energy efficiency programs, accomplished here by using an unjustifiably low discount rate in the calculation of the utility costs test (UCT), which has the effect of increasing the cost-effectiveness scores for Columbia (Costello at KWC-2; Shutrump at 15-16; OCC Br. at 21-22). OCC claims that the Commission has concluded that a utility's weighted average cost of capital (WACC) is the appropriate discount rate under the UCT and that Columbia's after-tax WACC is 8.12 percent. *See In re Protocols for the Measurement and Verification of Energy Efficiency and Peak Demand Reduction Measures*, Case No. 09-512-GE-UNC (*Energy Efficiency Case*), Finding and Order (Oct. 15, 2009) at Appendix C, 6. OCC claims that Columbia, however, used a lower discount rate, which resulted in better cost-effectiveness scores, and failed to provide any explanation for using the lower discount rate. (Shutrump at 16-17 (CONFIDENTIAL); OCC Br. at 22-23.) Therefore, OCC avers Columbia failed to present evidence to justify a different discount rate. Furthermore, OCC states that its witness, Ms. Shutrump, calculated the cost effectiveness of Columbia's DSM program using Columbia's cost-effectiveness model by only changing the discount rate to 8.12 percent, and the benefits decreased by 20 percent, resulting in program costs exceeding benefits. OCC avers that it is unjust for customers to pay profits on energy efficiency measures that, in the aggregate, lose money for consumers, especially during such precarious times. Accordingly, OCC requests that the Commission

eliminate Columbia's shared savings incentive. (Shutrump at 16-18, Attachment CLS-3 (CONFIDENTIAL); Columbia's Application, Schedule DSM-5; OCC Br. at 23-24.)

{¶ 47} Columbia asserts that it continues to correctly apply the cost-effectiveness methodology, including the discount rate, approved by the Commission in the *DSM Extension Case*. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶¶ 81-84, 110-113; Second Entry on Rehearing (Apr. 10, 2019) at ¶ 46. Columbia further argues that the Commission specifically rejected adopting an 8.12 percent discount rate proposed by OCC. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶¶ 81-84, 110-113. Also, as noted above, Columbia states the Commission found that some of the non-low-income DSM programs provide benefits as part of a package approved in the stipulation regardless of their cost-effectiveness, pointing to these programs' value as an avenue to communicate with and educate the energy consumer and as a way to encourage energy conservation. *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 39. As cost-effectiveness relates to shared savings, Columbia again notes that the shared savings incentive was previously approved by the Commission. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶¶ 98-99, 117-118. Also, Columbia notes that its witness, Mr. Pigg, verified that Columbia correctly calculated its shared savings incentive for 2019, and Staff found no issues with the calculation. Columbia asserts that OCC's claim that Columbia should not have any shared savings in 2019 because Columbia used the incorrect discount rate, making the DSM programs not cost-effective, should be rejected for the foregoing reasons. (Shutrump at 15-18; Pigg at 2-3; Columbia Br. at 10-11.)

{¶ 48} Similar to Columbia, OPAE contends that OCC's argument regarding the discount rate used by Columbia to determine the lifetime savings and cost effectiveness of the DSM program has already been rejected by the Commission and remains flawed. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 113. In response to OCC's claim that Columbia used an unjustifiably low discount rate and should have used the WACC of 8.12 percent, OPAE asserts that OCC's argument is technically flawed. OCC relies on the Commission decision in the *Energy Efficiency Case* to claim that Columbia must use the

WACC, pointing to the Commission's statement noting that it has generally used the WACC since this rate is the same discount rate used to evaluate supply-side investments. *Energy Efficiency Case*, Finding and Order (Oct. 15, 2009) at Appendix C, 6. OPAE states that Ms. Shutrump fails to include the next sentence of the Commission decision, which provides that the participant's cost of capital is often used for the Program Administrator Cost Test. *Energy Efficiency Case* at Appendix C, 6. In "Provisional Recommendation #2b" of that decision, the Commission recommends that utilities use the interest rate for a two-year treasury bond for residential consumers and the WACC for non-residential customers. *Energy Efficiency Case* at Appendix C, 6. OPAE argues that the DSM program is expensed, not capitalized, meaning the WACC is inappropriate to use to determine the value of the investment, at least for residential customers, and arguably all customers. OPAE asserts that the financial and social value of the programs to customers over the life of the measures is key, not whether DSM programs offset the need for capital expenditures. (OPAE Br. at 11-12.)

4. Commission's Conclusion

{¶ 49} In the *DSM Extension Case*, the Commission declared that Columbia has a duty to ensure that its ratepayers only incur prudent and reasonable charges from the DSM program and that the goal of the annual audit proceedings would be to ensure the costs passed through the rider to customers are accurate and no more than appropriate. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 119. Though the above standard of review for annual audit proceedings persists, the Commission clarified on rehearing that it "may also consider additions, revisions, or amendments to Columbia's DSM program as a part of Columbia's DSM program renewal application or the annual DSM rider proceedings." *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 19.

{¶ 50} In support of its argument to repurpose Columbia's WarmChoice program's funds towards a new bill assistance program, OCC asserts that the WarmChoice program is not cost-effective. OCC argues that, in 2019, the WarmChoice program resulted in a

significant monetary loss when subtracting the costs of the program from the benefits of the program, making such use of money inappropriate for these precarious times (Shutrump at 17-18; Attachment CLS-4 (CONFIDENTIAL); OCC Br. at 15-16). OCC largely relies on the testimony of Mr. Williams to support the proposed bill assistance program, who describes COVID-19 as the primary impetus for the program. The Commission, however, is not persuaded by OCC's testimony. First, OCC's cost-effectiveness argument has not swayed us from our conclusion in the *DSM Extension Case*, where we found that the stipulation put forth by the signatory parties, as a package, benefits ratepayers and the public interest. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 118; Second Entry on Rehearing (Apr. 10, 2019) at ¶ 50. We note that Columbia offered the testimony of Mr. Metz, who confirmed the reasonableness of the costs incurred as a result of the DSM program, including WarmChoice, and confirmed that the benefits of the DSM program exceeded its costs (Metz at 3, 11). Also, Staff found no issues with Columbia's 2019 Rider DSM costs, including the costs incurred by the WarmChoice program (Staff Comments at 12-14). Moreover, the Commission has recognized the important safety and long-term health effects the WarmChoice program's non-energy efficiency repairs have on household members, and OPAE's witness, Mr. Rinebolt, also touts weatherization's positive health impacts (Rinebolt at 13-14). *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 36. We note that OCC also argues that Columbia's cost-effectiveness scores were inflated due to Columbia using the incorrect discount rate when determining the DSM program's cost-effectiveness. However, this argument, which OCC directed more towards its other requests, will be addressed further below (Shutrump at 16-17 (CONFIDENTIAL); OCC Br. at 22-23).

{¶ 51} In further support of its request for repurposing weatherization funds towards a new low-income bill assistance program, OCC couples its cost-effectiveness argument with a plea to help Ohioans struggling to pay their utility bills, a struggle now heightened by the COVID-19 crisis (Williams at 7-8). The Commission acknowledges the gravity of the COVID-19 emergency and the serious health and economic impacts the virus has brought

upon consumers in the state of Ohio, and we recognize OCC's continued advocacy for Ohio's citizens. Also, we note that we have initiated a Columbia-specific docket to address COVID-19 related issues and have issued multiple rulings within this proceeding, including authorizing Columbia to re-engage in in-home energy audits and weatherization measures under certain protocols. *Columbia's Emergency Docket*, Supplemental Finding and Order (June 17, 2020) at ¶ 18. In regard to OCC tying its argument to COVID-19's ill effects on Columbia's customers, as the parties point out, Rider DSM is backwards looking. The annual audit proceedings ensure the accuracy of reported costs incurred by the program during the prior year and ensure the prudency of those already incurred expenses. When the Commission approves Columbia's annual application to adjust its Rider DSM rate, Columbia does not begin collecting funds from ratepayers pursuant to the adjusted rate until the following year. Mr. Williams admits as much in his testimony (Williams at 29). This delay in collecting funds, along with the likely inevitable months-long delay in establishing and implementing a new bill assistance program for all of Columbia's customers, attenuates OCC's argument that weatherization funds should be repurposed to address the COVID-19 crisis. Notably, $7.1 million of the WarmChoice program's costs, which OCC requests be repurposed, is collected through customer base rates, which are not subject to this proceeding (Williams at 29). As Columbia, OPAE, and ELPC effectively demonstrate, even if the Commission considered repurposing weatherization funds, critical design and implementation details are missing from OCC's proposed bill assistance program, including, but not limited to, a lack of evidence to adequately support the stated eligibility thresholds, little consideration of program administrative costs, and an insufficient explanation of how the rebate amounts were chosen (Williams at 22-27). Implementing a new bill assistance program requires well-thought-out policies and design, all integrated with coordination among several agencies. This annual Rider DSM audit proceeding is not the appropriate forum for such considerations. Accordingly, the Commission rejects OCC's request that Columbia repurpose the WarmChoice program's funding towards OCC's proposed low-income bill assistance program.

{¶ 52} OCC next argues that the non-low-income portions of the DSM program should be terminated or substantially scaled down. This argument, calling for Columbia to terminate individual DSM programs due to their lack of cost-effectiveness, is not well-taken. As already noted above, in the *DSM Extension Case*, we found that the stipulation put forth by the signatory parties, as a package, benefits ratepayers and the public interest. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 118; Second Entry on Rehearing (Apr. 10, 2019) at ¶ 50. Here, we note that Columbia offered the testimony of Mr. Metz, who confirmed the reasonableness of the costs incurred as a result of the DSM program and confirmed that the benefits of the DSM program exceeded its costs, and Staff found no issues with Columbia's 2019 Rider DSM costs (Metz at 3-7, 11; Staff Comments at 12-14). Furthermore, we have already opined on the importance of certain components of the DSM program in terms of their benefits, as opposed to their overall costs to the DSM program. For example, we noted the benefits of the Residential Energy Efficiency Education for Students, EPA Portfolio Manager, and Online Energy Agent programs when comparing their costs to the overall DSM program cost, and stated that "these three programs serve as an avenue to communicate with and educate the energy consumer and to encourage energy conservation." *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 39.

{¶ 53} In further support of its termination argument, OCC also asserts that low natural gas prices reduce the value offered by utility-run energy efficiency programs (Shutrump at 5-6, 14; Costello at KWC-2; OCC Br. at 19). Again, we directly rejected this argument in the *DSM Extension Case*, where, similar as to now, we were experiencing historically low natural gas prices, and "recognize[d] that, while the current low price of natural gas is unlikely to incent a customer to install or implement energy conservation measures, such programs need to be continuously encouraged." *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 108. We further recognized that DSM programs involve long-term energy conservation benefits that may accrue over decades, so, during times of low natural gas prices, it is important to encourage consumers to engage in energy conservation measures while they potentially have the budget to do so. *DSM Extension Case*,

Opinion and Order (Dec. 21, 2016) at ¶ 108. OCC also argues that non-low-income natural gas programs have achieved their objective, as observed through the competitiveness of the energy efficiency programs and the degree of consumer participation in these programs (Shutrump at 5; Costello at 5; OCC Br. at 18-19). However, OCC offered little to no evidence to support these claims. Consequently, we see no reason to depart from the rationale detailed above concerning the importance of including programs that educate consumers about energy conservation and that encourage consumers to participate in energy conservation measures to more readily achieve long-term energy conservation benefits. Therefore, the testimony provided by Ms. Shutrump and Mr. Costello is not sufficient to sway our opinion on the foregoing issue. Further, OCC relies on Staff testimony presented in the *Vectren DSM Case* to substantiate its position that natural gas energy efficiency programs do not provide system-wide benefits to non-participants. *Vectren DSM Case*, Opinion and Oder (Sept. 13, 2006). We rejected this same argument in the *DSM Extension Case*, noting that, despite Staff's arguments in the *Vectren DSM Case*, we ultimately approved the gas DSM program and have approved gas DSM programs that produce demonstrable benefits, reasonably balance total costs, and minimize the impact on non-participants. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶¶ 107-108.

{¶ 54} As to OCC witness Costello's testimony, it provides general conclusions regarding the economic soundness of energy efficiency programs and recommends that the Commission terminate or substantially scale down Columbia's DSM program. However, his testimony splices his general conclusions about energy efficiency programs with his sweeping recommendation to end Columbia's DSM program, with scarce reasoning in between, and fails to reconcile his conclusions with Columbia's Rider DSM or this specific annual audit proceeding. As already detailed in the *DSM Extension Case*, pursuant to R.C. 4905.70, the Commission is vested with the authority to initiate programs which will promote and encourage energy conservation, and, under R.C. 4929.02(A)(12), it is the policy of the state to promote an alignment of natural gas company interests with consumer interests in energy efficiency and energy conservation. *DSM Extension Case*, Opinion and

Order (Dec. 21, 2016) at ¶ 125. We have concluded that well-designed and cost-effective DSM programs are consistent with Ohio's economic and energy policy objectives. *DSM Extension Case* at ¶ 126 (citing *In re the Application of The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 07-829-GA-AIR, et al., Opinion and Order (Oct. 15, 2008) at 22-23). Furthermore, we found that the stipulation put forth by the signatory parties, as a package, benefits ratepayers and the public interest. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 118; Second Entry on Rehearing (Apr. 10, 2019) at ¶ 50. Additionally, we found that the costs incurred as a result of Columbia's DSM program were prudent and reasonable in each of its two prior annual audit proceedings. *In re the Application of Columbia Gas of Ohio, Inc.*, Case No. 17-2374-GA-RDR, Finding and Order (Apr. 25, 2018); *In re the Application of Columbia Gas of Ohio, Inc.*, Case No. 18-1701-GA-RDR, Opinion and Order (Apr. 24, 2019). The history of the above proceedings and the articulated policies and reasoning surrounding the adoption of gas DSM programs, including Columbia's DSM program, heavily outweighs the brief and general testimony of Mr. Costello presented by OCC.

{¶ 55} OCC argues that Columbia used an unjustifiably low discount rate, which resulted in better cost-effectiveness scores, triggering Columbia's shared savings incentive. OCC also argues that the shared savings incentive should be terminated. (Shutrump at 16-17 (CONFIDENTIAL); OCC Br. at 22-23.) OCC claims that the Commission has concluded that a utility's WACC is the appropriate discount rate under the UCT and that Columbia's after-tax WACC is 8.12 percent, yet Columbia used a lower rate in determining the DSM program's cost-effectiveness in 2019. As with many of OCC's previous arguments in this proceeding, these arguments are recycled from those made by it in the *DSM Extension Case*. We specifically rejected the use of an 8.12 percent discount rate in the *DSM Extension Case* and determined that Columbia had provided sufficient evidence supporting its cost-effectiveness methodology. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶¶ 81-84, 110-113; Second Entry on Rehearing (Apr. 10, 2019) at ¶ 46. In this case, Columbia offered the testimony of Mr. Metz, who confirmed the reasonableness of the costs incurred as a result of the DSM program and confirmed that the benefits of the DSM program

exceeded its costs (Metz at 3-7). Additionally, Columbia offered the testimony of Mr. Pigg, who verified that Columbia correctly calculated its shared savings incentive for 2019 (Pigg at 2-3). Furthermore, Staff found no issues with Columbia's 2019 Rider DSM costs, including the shared savings calculations (Staff Comments at 12-14). Accordingly, we do not find OCC's arguments on this issue persuasive. OCC also attempts to buttress its argument to eliminate the shared savings incentive by emphasizing the negative economic effects on Ohio consumers stemming from COVID-19. However, for the same reasons articulated above, OCC's arguments regarding COVID-19 are not well-taken and are rejected.

{¶ 56} Finally, we note that the Commission may change or modify earlier orders adopting a stipulation when the Commission justifies the changes. *See Ohio Consumers' Counsel v. Pub. Util. Comm.*, 114 Ohio St.3d 340, 2007-Ohio-4276, 872 N.E.2d 269, ¶ 16. Furthermore, as indicated earlier, we may consider changes to Columbia's Rider DSM during annual audit proceedings. *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 19. However, we prefer, in this instance, not to disturb a carefully crafted settlement package that involved the meticulous work of many stakeholders in the *DSM Extension Case*. With sufficient reason, we possess the authority to alter prior decisions adopting stipulations, though we exercise such authority to modify precedent only cautiously, as instructed by the Ohio Supreme Court, in an effort to avoid the chilling effect changing precedent may have on future negotiations in proceedings before the Commission. *In re Application of Ohio Power Co.,* 144 Ohio St.3d 1, 2015-Ohio-2056, 40 N.E.3d 1060, ¶16, quoting *Cleveland Elec. Illum. Co. v. Pub. Util. Comm.,* 42 Ohio St.2d 402, 431, 330 N.E.2d 1 (1975), superseded on other grounds by statute as recognized in *Babbit v. Pub. Util. Comm.,* 59 Ohio St.2d 81, 89, 391 N.E.2d 1376 (1979). Here, as demonstrated above, OCC has not provided sufficient evidence for us to conclude that the careful balance struck by the signatory parties should be set aside. Therefore, we reject OCC's arguments in their entirety.

C. Suburban's Position

{¶ 57} Suburban's position in this proceeding does not call for the elimination of

Columbia's DSM program, but rather, asserts that Columbia purportedly implemented its EfficiencyCrafted Homes program in a manner inconsistent with the stated purpose of the DSM program as approved by the Commission. Suburban proceeds to set forth arguments stemming from *In re the Complaint of Suburban Natural Gas Company v. Columbia Gas of Ohio, Inc.*, Case No. 17-2168-GA-CSS (*Suburban Complaint Case*). Suburban argues that the Commission appears to have determined in the *Suburban Complaint Case* that objections to Columbia's DSM program were untimely and misplaced since Suburban had not participated in prior DSM proceedings. *Suburban Complaint Case*, Opinion and Order (Apr. 10, 2019) at ¶ 58. Accordingly, Suburban states that it is raising its concerns in this proceeding and claims that the Commission deemed the annual rider update proceeding as an appropriate forum for such issues. *Suburban Complaint Case* at ¶ 60. (Suburban Br. at 1-3.)

{¶ 58} Suburban states that the Commission approved a stipulation extending Columbia's DSM program, including an energy efficient new homes program that offers direct cash incentives to home builders meeting certain energy efficiency standards in or within its service territory. Suburban claims that Columbia is implementing this program in a Delaware County, Ohio subdivision that is not within Columbia's service territory but, instead, is in Suburban's service territory. Suburban suspects that Columbia has recovered or intends to recover the cost of these financial incentives through its Rider DSM for the improper purpose of competing with Suburban. Suburban further claims that Columbia is extending or plans to extend its gas mains to serve the disputed areas in a manner that duplicates Suburban's existing distribution mains. Collectively, Suburban submits that it has been harmed by Columbia's actions, all of which constitute violations of the Commission order approving Columbia's DSM program, Columbia's Rider DSM, and numerous statutory provisions. (Suburban Br. at 1-6.)

{¶ 59} More specifically, Suburban claims that Columbia deployed its DSM program in an unfair or abusive manner against Suburban and beyond the authority granted to Columbia by the Commission, by using the program to competitively expand its service

territory rather than enhance energy efficiency for its customers. In support of its assertions, Suburban argues that Columbia has been using the EfficiencyCrafted Homes program as a competitive response tool by ensuring developers are aware of the program through communications with its sales team. (Suburban Br. at 6-10.) Suburban cites to a memorandum submitted internally at Suburban and attached to the testimony of Mr. Pemberton, where a Suburban representative claimed that Pulte Homes (Pulte) specifically told a representative that Pulte chose Columbia to service the south side of a new Glenross subdivision (Glenross) due to Columbia's building incentive (Pemberton at 14, Ex. B; Suburban Br. at 7). Suburban claims that Columbia has used the building incentive in a similar manner in other areas outside of its service territory, including in Berlin Township, and to entice building representatives for Romanelli & Hughes (Pemberton at 14-15, Ex. C, D, E; Suburban Br. at 7-8). Suburban asserts that, when Suburban submitted its own application for a DSM program, the Commission Staff testified in opposition to the proposed program, deeming it as merely a competitive response program to Columbia, and the Commission accepted this recommendation. *In re the Self-Complaint of Suburban Natural Gas Company Concerning its Existing Tariff Provisions*, Case No. 11-5846-GA-SLF, Prepared Testimony of Stephen E. Puican (June 6, 2012) at 5; Opinion and Order (Aug. 15, 2012) at 4, 10. Suburban asserts that Columbia uses its program as a competitive tool in areas where it currently faces competition, including in Glenross and other subdivisions. Suburban also alleges that Columbia's previous DSM program applications established a geographic limitation for the program when Columbia referred to its "service territory," implying that Columbia only sought authority to offer these programs in the area it served at the time of its DSM applications and not in another utility's service territory. Suburban asserts that the Commission approved the program in the *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 115, with the understanding that Columbia would use the program to encourage the construction of energy efficient homes in Columbia's service territory. (Pemberton at 6-7; Suburban Br. at 5, 8-10.)

{¶ 60} Suburban argues that, by providing funds for purposes outside the stated

scope and purpose of the builder incentive program, Columbia is recovering ineligible costs through its Rider DSM and violating the Rider DSM provisions, which the Commission should prohibit. Furthermore, Suburban argues that Columbia's administration of the DSM program violates R.C. 4905.33, which prohibits public utilities from charging less compensation than what is specified in their tariffs. By providing funds for purposes outside the stated scope and purpose of the builder incentive program, Suburban alleges that Columbia is unlawfully collecting costs associated with providing these improper incentives to its customers. Similarly, Suburban claims that Columbia's actions, as described above, violate R.C. 4905.35, which prohibits a utility from making or giving any undue or unreasonable preference to any person or corporation. Finally, Suburban argues, pursuant to the doctrines of res judicata and collateral estoppel, Columbia is precluded from expanding the scope and purpose of its builder incentive program because the *DSM Extension Case* considered and decided issues regarding the geographic scope and purpose of the builder incentive program. Suburban requests that the Commission prohibit Columbia from implementing its builder incentive program in a manner inconsistent with the stated purpose of the programs as authorized by the Commission. (Pemberton at 6-7, 12-13; Suburban Br. at 10-13.)

{¶ 61} Columbia argues that Suburban's allegations and supportive testimony are retreads of those proffered in the *Suburban Complaint Case*, a case in which the Commission denied Suburban's arguments in their entirety. *Suburban Complaint Case*, Opinion and Order (Apr. 10, 2019) at ¶ 52. Furthermore, pointing to Mr. Metz's testimony regarding a description of the EfficiencyCrafted Homes program for 2019, Columbia asserts that this program has not experienced any material changes since the *Suburban Complaint Case*; therefore, this proceeding should not result in a different outcome than that reached in the *Suburban Complaint Case*. Columbia proceeds to contest issues raised by Mr. Pemberton's testimony by citing to the Commission's conclusions that largely reject Suburban's arguments. (Columbia Br. at 12-15.)

{¶ 62} More specifically, Columbia asserts that no certified gas service territories

exist in Ohio, any certified natural gas company may serve any customer in any part of the state, and Ohio's statutes permit competition as do the Commission's and Federal Energy Regulatory Commission's rules. *Suburban Complaint Case*, Opinion and Order (Apr. 10, 2019) at ¶ 52; Second Entry on Rehearing (Oct. 23, 2019) at ¶ 35. (Pemberton at 7-10; Columbia Br. at 13-14.) Even though Columbia used the term "service territory" in its applications, the Company states that this does not limit the geographic area within which Columbia could offer its energy efficient building incentive, plus the prior applications and Commission orders did not distinguish between Columbia's service territory and the service territory of other natural gas providers. *Suburban Complaint Case*, Opinion and Order (Apr. 10, 2019) at ¶ 57; Second Entry on Rehearing (Oct. 23, 2019) at ¶ 23. (Pemberton at 7-10; Columbia Br. at 14.) Further, Columbia states that a service territory may constantly change since natural gas providers are not provided a guaranteed certified territory; therefore, any development where Columbia will be providing natural gas distribution service is eligible for the EfficiencyCrafted Homes program. *Suburban Complaint Case*, Opinion and Order (Apr. 10, 2019) at ¶ 57. (Pemberton at 7-10; Columbia Br. at 14.) According to Columbia, the Commission determined that Columbia is permitted to offer the above program to compete against other natural gas companies for developments. *Suburban Complaint Case*, Opinion and Order (Apr. 10, 2019) at ¶ 57; Second Entry on Rehearing (Oct. 23, 2019) at ¶ 23. (Pemberton at 11-12; Columbia Br. at 14.) Columbia argues that, contrary to Suburban's claims, the Commission determined that there is no indication that Columbia deployed its energy efficiency home builder incentive in an abusive or anti-competitive manner to expand its service territory, and Suburban did not meet its burden of proof in relation to the Glenross South development or other developments. *Suburban Complaint Case*, Opinion and Order (Apr. 10, 2019) at ¶¶ 57, 60, 70-71. (Pemberton at 11-16; Columbia Br. at 14-15.) Finally, Columbia states that the Commission asserted that Suburban is well within its rights to request to implement a similar DSM program yet failed to correct deficiencies in its last application to do so. *Suburban Complaint Case*, Opinion and Order (Apr. 10, 2019) at ¶ 51; Second Entry on Rehearing (Oct. 23, 2019) at ¶ 23. (Pemberton at 16-17; Columbia Br. at 14-15.) In conclusion, Columbia asserts that the Commission should reject Suburban's

arguments.

{¶ 63} Suburban asserts multiple allegations against Columbia's use of its EfficiencyCrafted Homes program, including alleging that Columbia is implementing the program outside of its service territory, is using financial incentives to improperly compete against Suburban, and is extending its gas mains in a manner that duplicates Suburban's existing distribution mains, all of which constitute violations of the *DSM Extension Case* order, Columbia's Rider DSM, and numerous statutory provisions (Suburban Br. at 6-13). The Commission notes, however, that Suburban litigated most of these issues in the *Suburban Complaint Case*, within which the Commission found that Suburban presented insufficient evidence to conclude that Columbia should be prohibited from engaging in its Commission-approved EfficiencyCrafted Homes program; that Columbia acted in any manner that was unjust or unreasonable under R.C. 4905.26; or that Columbia otherwise violated any provision of R.C. Title 49, past Commission order, or its tariff. *Suburban Complaint Case*, Opinion and Order (Apr. 10, 2019) at ¶¶ 52, 70-71.[2]

{¶ 64} Suburban offers two reasons for reasserting its allegations in this proceeding. First, Suburban argues that the Commission appears to have determined in the *Suburban Complaint Case* that objections to Columbia's DSM program were untimely and misplaced since Suburban had not participated in prior DSM proceedings; therefore, the Commission deemed the annual rider update proceeding as an appropriate forum for such issues. *Suburban Complaint Case* at ¶¶ 58, 60. Second, Suburban reasserts its allegations since the Commission may consider additions, revisions, or amendments to Columbia's DSM program as part of the annual Rider DSM proceedings. *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 19. (Suburban Br. at 2-3.)

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2 Suburban appealed the Commission's decision in the *Suburban Complaint Case* to the Ohio Supreme Court. Ultimately, the Court affirmed the Commission's decision. *In re Complaint of Suburban Natural Gas Co. v. Columbia Gas of Ohio, Inc.*, Slip Opinion No. 2020-Ohio-5221.

{¶ 65} In the *Suburban Complaint Case*, we noted that Suburban failed to intervene in the *DSM Extension Case* and prior DSM approval cases, yet we advised that the orders from those cases thoroughly address a majority of the issues raised by Suburban regarding the DSM program, Rider DSM, and the governing tariff language. *Suburban Complaint Case*, Opinion and Order (Apr. 10, 2019) at ¶ 58. Further, we noted that we will continue to ensure Columbia is in compliance with the Commission's applicable rules and orders when administering the DSM program. *Suburban Complaint Case* at ¶ 58. While we had stated that Suburban failed to intervene in prior DSM proceedings, that we would continue to ensure DSM program compliance in the annual audit proceedings, and that we may consider DSM program revisions in the annual audits, to the extent Suburban interpreted these statements as an invitation to re-assert already litigated issues in this proceeding, it is mistaken. Columbia asserts that the Commission should reach the same conclusions as it did in the *Suburban Complaint Case* since the EfficiencyCrafted Homes program has not materially changed subsequent to that case (Metz at 4-5; Columbia Br. at 13). We agree with this assertion since Suburban failed to present new, persuasive evidence indicating otherwise. Suburban offered the testimony of Mr. Pemberton, who also testified in the *Suburban Complaint Case*, to support its arguments. Outside of including figures associated with Columbia's EfficiencyCrafted Homes program in 2019 and asserting that Columbia may have used its builder incentives as a marketing tool and to help it expand into the Berlin Manor subdivision, his testimony includes little additional evidence as to that offered in the *Suburban Complaint Case*. Although we did not reach a finding regarding abusive and anticompetitive behavior in the *Suburban Complaint Case*, Suburban's filings in this case do not alter the prior sentiments we expressed regarding there being no indication that Columbia deployed its DSM program in an abusive or anticompetitive manner to expand its service territory. *Suburban Compliant Case* at ¶¶ 55, 57, 60. In fact, we found that there are no certified gas service territories in Ohio and any certified natural gas company may serve any customer in any part of the state. *Suburban Complaint Case* at ¶ 52 (citing *In re Columbia Gas of Ohio, Inc.*, Case No. 87-1528-GA-ATA, Opinion and Order (Dec. 8, 1987)). (Pemberton at 14-15, Ex. C-E; Suburban Br. at 7-8.)

{¶ 66} Finally, Suburban argues that the doctrines of *res judicata* and collateral estoppel preclude Columbia from expanding the scope and purpose of its building incentive program since the geographic scope and purpose of the builder incentive program were considered and decided by the Commission in the Opinion and Order in the *DSM Extension Case* (Suburban Br. at 12). Suburban's argument is nonsensical since the Commission essentially concluded the opposite in the *Suburban Complaint Case*, where we found that Columbia should not be prohibited from engaging in its Commission-approved EfficiencyCrafted Homes program, rejecting Suburban's allegation concerning Columbia implementing the program outside of its service territory and improperly using the builder incentive program. *Suburban Complaint Case* at ¶¶ 52, 70-71. Therefore, Suburban's arguments in this proceeding are rejected.

D. ELPC's Position

{¶ 67} Pursuant to the Commission decision in the *DSM Extension Case*, where the Commission stated that it may consider additions, revisions, or amendments to Columbia's DSM program as part of the annual Rider DSM proceedings, ELPC requests that the Commission expand the smart thermostat program, which is part of Columbia's Simple Energy Solutions program. *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 19. (ELPC Br. at 8.) ELPC reiterates the arguments it made in the *DSM Extension Case*, asserting that the smart thermostat program offers a majority of Columbia's customers a product that generates savings at a relatively low price, whereas other programs come at a higher cost for less savings per customer dollar spent. ELPC also argues that Columbia failed to adequately follow the Commission's directive in the *DSM Extension Case* for Columbia to coordinate with AEP Ohio and FirstEnergy to combine gas and electric rebates for smart thermostats. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 71. (ELPC Br. at 9.) In support of its argument, ELPC attached Columbia's response to ELPC's interrogatories and requests for production of documents, which ask, among other things, when Columbia began coordinating the joint rebate program. According to ELPC, these responses demonstrate that Columbia began this joint rebate process coordination in spring

of 2019, two and a half years after the order in the *DSM Extension Case* was issued. ELPC argues that, although the Second Entry on Rehearing was not issued until April 2019 in the *DSM Extension Case*, this delay in coordination is notable because Columbia began conducting all of its efficiency programs, including the smart thermostat program, soon after the Commission issued the 2016 order. (ELPC Br. at 9-10, Attachment 1; INT-1-1, Attachments A-E; INT-1-2, Attachments A-F; INT-1-3, Attachments A-B; INT-1-4, Attachments A-B.) Accordingly, ELPC believes Columbia failed to make a good faith effort to combine the rebates.

{¶ 68} Considering Columbia's failure to coordinate a joint rebate process and the uncertainty revolving around AEP Ohio's and FirstEnergy's rebate programs due to elimination of the electric utility mandates under Am.Sub.H.B. No. 6, ELPC requests that the Commission direct Columbia to shift more resources from existing programs into the smart thermostat program. ELPC notes that smart thermostat prices have dropped, and Columbia now offers an instant discount not originally offered in 2016. ELPC asserts that the number of smart thermostats discounted by Columbia in 2019, 14,174 thermostats, is disappointing considering the low-priced products. (Metz at 5; ELPC Br. at 10-11.) Consequently, ELPC requests that the Commission direct Columbia to develop a marketing budget designed to reach a target of 46,000 smart thermostats per year and shift money, approximately $1-$2 million, from less cost-effective programs to achieve such adjustment. ELPC argues that this adjustment will make the DSM program more beneficial to customers with no additional increase to the program's cost. (ELPC Br. at 11.)

{¶ 69} Columbia first notes that it submitted the testimony of Ms. Thompson to provide an update on its efforts to coordinate a joint smart thermostat rebate program, as directed in the *DSM Extension* Case, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 24. Columbia states that it held numerous meetings through 2019 to which various stakeholders were invited, and Columbia points out that Columbia's discovery responses submitted in the docket by ELPC consist of numerous details on meetings, surveys, and responses Columbia received during this period (Thompson at 4-5; Columbia Br. at 16). Columbia

further states that AEP Ohio and FirstEnergy declined to participate in a consolidated rebate process, and competitive retail electric service (CRES)/competitive retail natural gas service (CRNGS) providers have not expressed interest either (Thompson at 5; Columbia at 16). Columbia believes that the discovery responses ELPC submitted to the docket, as well as Ms. Thompson's testimony, show that Columbia made a good faith effort to explore a consolidated smart thermostat rebate program. Since AEP Ohio and FirstEnergy are winding down their rebate programs, Columbia asserts that it cannot create a market for a joint rebate program if none exists. (Columbia Br. at 16.) Columbia also states that its smart thermostat program still has provided benefits to customers, especially considering Columbia rebated an increase of 2,955 smart thermostats in 2019 from 2018 (Metz at 5). *In re the Annual Application of Columbia Gas of Ohio, Inc.*, Case No. 18-1701-GA-RDR, Opinion and Order (Apr. 24, 2019) at ¶ 27. Columbia also states that it partnered with several different smart thermostat manufacturers and offered promotions whereby customers would receive rebates from the manufacturer in addition to Columbia's rebate. Columbia also notes that the Simple Energy Solutions program is cost-effective and award winning and argues that additional efforts to coordinate a consolidated smart thermostat rebate program would be an inefficient use of the DSM program resources. (Metz at 5.) Finally, Columbia requests that the Commission find that Columbia satisfied the Commission's directive to attempt to implement a consolidated smart thermostat rebate program and release Columbia from any further efforts towards that goal. (Columbia Br. at 16-17.)

{¶ 70} In the *DSM Extension Case*, we directed Columbia to coordinate with AEP Ohio and FirstEnergy to combine gas and electric rebates for smart thermostats, recognizing that it may not be feasible for a Columbia customer to receive a smart thermostat rebate from both gas and electric utilities and, if applicable, a CRES or CRNGS provider. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 71. We requested that Columbia provide updates regarding its progress in implementing such a program in its annual Rider DSM application each year through 2022, and we directed Columbia to provide an explanation of its decision to continue or discontinue the consolidated rebate process in its next DSM

renewal application. *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 24. ELPC argues that Columbia failed to make a good faith effort to combine the rebate programs, noting that Columbia did not hold its first consolidated smart thermostat stakeholders meeting until June 19, 2019. To support its claim, ELPC filed discovery responses sent to it by Columbia, summarizing Columbia's coordination of the joint rebate process. Looking at these responses from Columbia, we first note that Columbia hosted DSM stakeholder collaborative meetings in 2017, 2018, and 2019 (RPD-1-1, Attachments A-D). Columbia held four meetings in 2019 at the Commission's offices to discuss the consolidated rebate program and attached a detailed joint rebate process with its discovery responses (ELPC Br. at Attachment 1; INT-1-1, Attachments A-E; INT-1-2, Attachments A-F; Thompson at 4-5). ELPC highlights the timing of this first meeting in June 2019, noting that the Commission issued the initial joint rebate process directive in its December 21, 2016 Opinion and Order followed by the clarification in the Second Entry on Rehearing issued on April 21, 2019, and asserts that Columbia implemented the rest of the DSM program without delay after the 2016 order (ELPC Br. at 9-10). Columbia's responses show email exchanges between Columbia and FirstEnergy, beginning in 2017, within which they discuss possible coordination between certain energy efficiency programs, and the responses also show email exchanges between Columbia and AEP Ohio, beginning in 2017, discussing opportunities to combine smart thermostat rebate promotions. Furthermore, the communications demonstrate that the collaboration between Columbia, FirstEnergy, and AEP Ohio regarding a consolidated smart thermostat rebate program began in earnest in 2019. (ELPC Br. at Attachment 1; INT-1-1, Attachments A-B; INT-1-3, Attachments A-B; INT-1-4, Attachments A-B; INT-1-8; INT-1-9.) Notably, Columbia claims that it has been in contact with Staff regarding the implementation of this program, and Staff appears to have been present at these stakeholder meetings (ELPC Br. at Attachment INT-1-1, INT-1-1; INT-1-5; Thompson at 4-5). Neither Staff nor any other party outside of ELPC has raised concerns regarding Columbia's efforts to implement this program. While the above-mentioned emails do not necessarily show pervasive contact with these electric utilities, neither do they provide sufficient evidence for us to conclude Columbia failed to make a good faith effort

to implement the program between the 2016 order and the present time. Columbia did contact the utilities from 2017 through 2019 to exploit possible energy efficiency program benefits for customers and attempted to coordinate a joint smart thermostat rebate program, holding several joint rebate stakeholder meetings and creating a joint rebate program design.

{¶ 71} Additionally, in compliance with the Second Entry on Rehearing's directive to provide an update on the consolidated smart thermostat rebate process, Columbia filed testimony from Ms. Thompson, who advised that AEP Ohio and FirstEnergy declined to participate in a consolidated smart thermostat rebate process and that CRES and CRNGS providers have not notified Columbia of interest in such a process (Thompson at 4-5). While a consolidated rebate program may be most convenient for customers, we agree with Columbia's assertion that a consolidated program cannot be forced when AEP Ohio, FirstEnergy, CRES providers, and CRNGS providers have not professed further interest in such a program. Notably, in the *DSM Extension Case*, we found Columbia's $75 rebate sufficient. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 71. Although a consolidated smart thermostat rebate process has not materialized, due to the increased affordability of smart thermostat products, Columbia's approved rebate results in a significant price reduction for purchasing customers. Therefore, to this date, Columbia has satisfied our directives in the *DSM Extension Case* regarding pursuing a consolidated smart thermostat rebate process. While we still direct Columbia to provide updates in its annual audit applications regarding any interest received in and/or implementation of a consolidated smart thermostat rebate program, we relieve Columbia of our directive to coordinate and implement such a program. We may choose to alter this decision in future annual audit or application renewal proceedings.

{¶ 72} ELPC, as it previously argued in the *DSM Extension Case*, also asserts that the Simple Energy Solutions program generates savings at a relatively low cost compared to other individual DSM programs. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 68. Moreover, ELPC finds the number of smart thermostats sold by Columbia in 2019,

14,174 thermostats, disappointing considering product prices have continued to drop (Metz at 5; ELPC Br. at 10-11). ELPC requests that the Commission direct Columbia to shift more resources into the marketing budget for smart thermostats in order to reach a target of 46,000 smart thermostat sales per year (ELPC Br. at 11). In the *DSM Extension Case*, we advised that, if Columbia determines that any component of the DSM program is underperforming or the program budget should be reduced or discontinued, the funds should be transferred to the Simple Energy Solutions program to first develop an education and marketing campaign, with additional steps to follow this fund transfer. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 71. As clarified in the Second Entry on Rehearing, we noted that a program is underperforming when the customer participation rate for that program is 25 percent or more below the projected participation level for that program. *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 23. When ELPC raised this issue in the *DSM Extension Case*, suggesting a smart thermostat sale target of 46,000 per year, we rejected that argument, stating "the record does not include sufficient information of the cost-effectiveness of the Simple Energy Solutions program revised as opposing intervenors recommend." *DSM Extension Case*, Opinion and Order (Dec. 21, 1016) at ¶¶ 68, 71. We reach the same conclusion here. ELPC presented little to no evidence supporting the cost-effectiveness of its suggested smart thermostat sale target. Moreover, ELPC did not provide a coherent argument that identifies underperforming DSM programs, as defined in the Second Entry on Rehearing, from which to reallocate funds to the Simple Energy Solutions program. While the discovery documents filed by ELPC in this proceeding contain presentation slides created by Columbia consisting of several bar graphs showing fluctuating participation rates within certain DSM programs through prior years, ELPC made no attempts to parse through these participation rates and identify which programs are underperforming nor did ELPC provide a quantitative argument supporting the reallocation of funds from an underperforming program (RPD-1-1, Attachments A-D). The discovery responses filed by ELPC do not consist of information and context sufficient to reach a decisive conclusion regarding whether certain programs were underperforming. Therefore, at this time, we reject ELPC's argument to revise Columbia's Simple Energy

Solutions program.

E. Columbia's Request for Clarification

{¶ 73} Columbia requests clarification as to what the Commission will not consider in the Rider DSM update proceedings since it believes that certain intervenors are exploiting the Commission's pronouncement in the Second Entry on Rehearing, where the Commission advised that it may consider additions, revisions, and amendments to Columbia's DSM program during the annual Rider DSM proceedings. *DSM Extension Case*, Second Entry on Rehearing (Apr. 10, 2019) at ¶ 19. Columbia further believes that the annual audit proceedings are intended to consist of a review of the prudency of the previous year's costs. Here, all parties to the case except OCC found 2019's costs prudent and reasonable. Columbia requests that the Commission make clear that it will not allow re-litigation of policy, legal, and factual issues already decided in the *DSM Extension Case*, previous Rider DSM update cases, or any other relevant case when Columbia brings its future Rider DSM and Rider IRP update cases. According to Columbia, such clarification will avoid wasting the parties' and the Commission's resources, as has occurred here. (Columbia Br. at 17-18.)

{¶ 74} At this time, we will not alter the standard of review for the annual audit proceedings, as set forth in the *DSM Extension Case* and clarified in the Second Entry on Rehearing. *DSM Extension Case*, Opinion and Order (Dec. 21, 2016) at ¶ 119; Second Entry on Rehearing (Apr. 10, 2019) at ¶ 19. We acknowledge that these annual audits are more narrowly tailored proceedings compared to DSM program renewal cases, however. The Commission generally looks unfavorably on re-litigating decided issues since it results in administrative inefficiency, as well as wastes the resources for all involved; therefore, going forward, we ask parties to mindfully consider whether certain issues were decided in the *DSM Extension Case* or related cases prior to bringing them before the Commission in future Rider DSM update proceedings.

IV. CONCLUSION

{¶ 75} Upon consideration of the application, testimony, comments, and discussion above regarding the Rider DSM rate, the Commission finds that Columbia's application to adjust its Rider DSM rate is reasonable and should be approved, subject to Staff's recommendation regarding actual 2019 fourth quarter data being audited in Columbia's next annual filing.

V. ORDER

{¶ 76} It is, therefore,

{¶ 77} ORDERED, That Columbia's application to adjust its Rider DSM rate be approved, subject to Staff's recommendation. It is, further,

{¶ 78} ORDERED, That Columbia be authorized to file the tariff, in final form, consistent with this Opinion and Order. Columbia shall file one copy in this case docket and one copy in its TRF docket. It is, further,

{¶ 79} ORDERED, That the effective date of the new tariff shall be a date not earlier than the date upon which the final tariff pages are filed with the Commission. It is, further,

{¶ 80} ORDERED, That Columbia notify its customers of the changes to the tariff via bill message or bill insert within 30 days of the effective date of the revised tariff. A copy of the customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division at least ten days prior to its distribution to customers. It is, further,

{¶ 81} 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,

{¶ 82} ORDERED, That a copy of this Opinion and Order be served upon all parties and interested persons of record.

COMMISSIONERS:
Approving:
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

MJS/kck

Summary: Opinion & Order approving Columbia Gas of Ohio, Inc.’s application to adjust its demand side management rider, subject to Staff’s recommendation electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio