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Ms. Reneé Jenkins
Secretary, Public Utilities Commission of Ohio
180 East Broad Street, 13th Floor
Columbus, Ohio 43215-3793

Re: Case No. 07-478-GA-UNC

Dear Ms. Jenkins:

Please find enclosed an electronic copy of the Testimony of Philip E. Riley, Jr. on behalf of Utility Service Partners, Inc. in opposition to the Stipulation and Recommendation. A copy of this Testimony is being served on all counsel of record via e-mail and via U.S. mail.

Thank you for your cooperation.

Sincerely yours,

/s/
Stephen M. Howard
Attorneys for
Utility Service Partners, Inc.

SMH/jab
Enclosure
cc: All Counsel of record via e-mail and U.S. mail

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**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of)
Columbia Gas of Ohio, Inc. for Approval)
of Tariffs to Recover Through An)
Automatic Adjustment Clause Costs)
Associated with the Establishment of an)
Infrastructure Replacement Program)
and for Approval of Certain Accounting)
Treatment)**

Case No. 07-478-GA-UNC

**TESTIMONY OF PHILIP E. RILEY, JR. ON BEHALF
OF UTILITY SERVICE PARTNERS, INC.
IN OPPOSITION TO THE STIPULATION AND RECOMMENDATION**

1 **Q.1. Please state your name and business address.**

2 A.1. Philip E. Riley, Jr., President and CEO of Utility Service Partners, Inc., 480
3 Johnson Road, Suite 100, Washington, PA 15301.

4 **Q.2. Please describe your current position, your business and your educational**
5 **background.**

6 A.2. I am currently the President and CEO of Utility Service Partners, Inc. ("USP"). I
7 am a shareholder of USP, which was formed in September 2003 as the holding
8 company of Columbia Service Partners, Inc., which was purchased from the
9 Columbia Energy Group that same month. I graduated from West Virginia
10 University with a Bachelor of Science degree in Business Administration as well
11 as a Masters degree in Business Administration. I have 30 years' experience in
12 the energy industry with over 20 years with Consolidated Natural Gas Company.

13 **Q.3. Are you the same Philip E. Riley, Jr. that filed testimony in this proceeding**
14 **on October 23, 2007?**

1 A.3. Yes, I am.

2 **Q.4. What is the purpose of this testimony?**

3 A.4. After having read the Stipulation and Recommendation and the testimony in
4 support of the Stipulation and Recommendation, I am testifying in opposition to
5 the Stipulation and Recommendation and providing the Commission with reasons
6 why the Stipulation and Recommendation should not be adopted.

7 **Q.5. What are the reasons why the Commission should not adopt the Stipulation**
8 **and Recommendation in this case?**

9 A.5. There are several reasons. I am advised by counsel that Columbia Gas has the
10 burden of persuasion in this proceeding. First, there has been no reason provided
11 in this proceeding why the current system of customer-owned service lines should
12 not be continued. Second, the Stipulation and Recommendation replaces the
13 option of a customer having the choice of purchasing a warranty service with a
14 mandatory program where customers no longer have such a choice. Third, the
15 Stipulation and Recommendation places a higher priority on purported
16 convenience than it does safety. Under the current system, a Columbia employee
17 checks and inspects the work of an independent contractor before restoring gas
18 service; under the Stipulation and Recommendation, the same person who does
19 the work may be the same person who inspects the work prior to turning the gas
20 back on. Separating the independent functions of performing the work from
21 inspecting the work is, in my opinion, a significant feature that benefits the public.
22 This feature would be lost under the Stipulation and Recommendation apparently
23 because the convenience of having Columbia employees or contractors do both

1 the work and the inspection outweighs the practice of separating the work
2 (repair/replacement) from the inspection of the work.

3 The lack of customer service to a landowner is another reason why the
4 Stipulation and Recommendation should be rejected. Under the Stipulation and
5 Recommendation, Columbia, not the landowner, will determine who will repair or
6 replace a customer service line which is still owned by the landowner. This will
7 be different than the current situation where independent DOT OQ contractors
8 and warranty companies compete with one another to provide service to
9 landowners. As Mr. Phipps testified about a recent example on cross-
10 examination, Columbia's service to people with real needs has not always been
11 good, but those customers do not have a choice. It doesn't make sense to expand
12 Columbia's service to areas now served by competing companies who are chosen
13 by the customer and have a vested interest in satisfying their customers' needs.

14 Another reason for rejecting the Stipulation and Recommendation is one
15 of fairness. Under the Stipulation and Recommendation, a consumer living in a
16 rental apartment paying for natural gas service will also be forced to pay part of
17 the cost to repair and replace leaking customer service lines on other properties
18 even though the customer only rents the apartment. Under the current system, a
19 consumer living in a rental apartment is not required to pay part of the cost to
20 repair and replace leaking customer service lines on other properties. Under the
21 Stipulation and Recommendation, the customer with a relatively new customer
22 service line will pay for a portion of the repair or replacement of another
23 customer's older customer service line resulting in a generational subsidy. Also,

1 the approval of the Stipulation and Recommendation will introduce customer
2 confusion that does not currently exist. Finally, the Stipulation and
3 Recommendation creates a centralized monopoly of the customer service line
4 industry and adds a level of utility bureaucracy between the customer and the
5 contractor, which is not in the public interest.

6 Q.6. **Are there any other reasons why the Commission should not adopt the**
7 **Stipulation and Recommendation?**

8 A6. Yes. Utility Service Partners has over 100,000 gas line warranty contracts with
9 customers in Ohio. If the Stipulation and Recommendation is approved, then
10 beginning March 1, 2008 those contracts will be rendered worthless. In other
11 words, approval of the Stipulation and Recommendation will impair USP's ability
12 to fulfill those contracts. Not only will USP be impaired from fulfilling those
13 contracts, but an approved Stipulation and Recommendation will result in
14 Columbia taking our contract rights without just compensation. (USP had to pay
15 Columbia or its affiliate to obtain these contracts.) Further, under the Stipulation
16 and Recommendation, Columbia will be taking the property of landowners who
17 have customer owned service lines. Neither of these takings involves the concept
18 of just compensation. I am advised by counsel that such impairment of contracts
19 and such takings without just compensation may violate the United States and
20 Ohio Constitutions. Further, I am advised by counsel that the Commission has no
21 power to judicially ascertain and determine legal rights and liabilities, or
22 adjudicate controversies between parties as to contract rights or property rights.

1 **Q.7. Is the Stipulation and Recommendation the product of serious bargaining**
2 **among capable, knowledgeable parties?**

3 A7. No. The only two parties who signed the Stipulation and Recommendation were
4 Columbia and the Staff. Neither Mr. Ramsey nor Mr. Steele is an OQ plumber.
5 The two entities with the most at risk in this case – the landowners and the
6 warranty providers/OQ plumbers who provide the repair/replacement service on
7 customer service lines – are not signatories to the Stipulation and
8 Recommendation.

9 **Q.8. Does the Stipulation and Recommendation, as a package, benefit rate payers**
10 **and the public interest?**

11 A.8. The first part of the question appears to limit the evaluation of the impact of the
12 Stipulation and Recommendation on rate payers. I think that the Stipulation and
13 Recommendation in this case affects more than just rate payers; it affects
14 landowners and the warranty providers/OQ plumbers who provide the
15 repair/replacement service on customer service lines. But the answer to the
16 question as framed is no. Rate payers who are landowners are denied choice
17 under the Stipulation and Recommendation. Rate payers who are not landowners
18 are forced to subsidize others. Those rate payers who are landowners and own
19 relatively new customer service lines are forced to subsidize other rate payers who
20 are landowners and own older customer service lines. Because the Stipulation
21 and Recommendation does not continue the practice of having an independent
22 relationship between the person doing the repair/replacement work and the person

1 who reviews such work, there is a diminution of safety which is not in the public
2 interest.

3 **Q.9. Does the Stipulation and Recommendation violate any important regulatory**
4 **principle or practice?**

5 A.9. Yes. Under the Stipulation and Recommendation, the cost causer (the landowner
6 with the customer service line that has a hazardous leak) does not have to pay for
7 the cost imposed. Customers who do not impose costs are required to pay.
8 Customer choice is denied. Purported convenience is emphasized over safety.
9 The regulatory principle that a regulatory commission can only regulate that for
10 which it has been given authority is ignored. The Commission is granting to
11 Columbia a monopoly to repair and maintain non-utility property. I am advised
12 by counsel that the Commission can only regulate what is statutorily authorized.
13 The Stipulation and Recommendation violates this principle by allowing the
14 Commission, under the guise of "financial responsibility", to assert jurisdiction
15 over non-utility property and to transfer ownership of such non-utility property of
16 rate payers and non-rate payers to a public utility without statutory authorization.
17 Finally, the principle that regulatory bodies should address similar issues in a
18 similar manner will be violated as customers of other Ohio natural gas companies
19 will continue to own customer service lines and enjoy the option of having a
20 choice in who fixes and repairs their customer service lines.

21 **Q.10. Will adoption of the Stipulation and Recommendation enhance repair and**
22 **replacement work on risers and customer service lines?**

1 A.10. Absolutely not. Operator Qualified DOT licensed plumbers will still do the work
2 under the Stipulation as is the case today. If anything, safety will be diminished
3 because there will not be a third party independent inspection of all service line
4 work as is done under the Stipulation and Recommendation as there is today.

5 **Q.11. Under the Stipulation and Recommendation, will there be a uniform**
6 **approach to repair and replacement?**

7 A.11. No. Columbia can use its employees or independent contractors to either perform
8 the repair and replacement work or to inspect such work. There is no uniformity
9 built into the Stipulation and Recommendation. Further, there will be no uniform
10 approach to repair and replacement in Ohio because most of the other Ohio
11 natural gas companies will be using the current approach where the landowner
12 owns the customer service line that runs from the property line to the meter.

13 **Q.12. Will adoption of the Stipulation and Recommendation provide better LDC**
14 **oversight and clear lines of responsibility for pipeline safety compliance?**

15 A.12. No. Under current conditions, local distribution companies have oversight and
16 clear lines of responsibility for pipeline safety compliance. Changing ownership
17 of customer service lines does not increase LDC oversight nor make clearer the
18 lines of responsibility for pipeline safety compliance.

19 **Q.13. If the Stipulation and Recommendation is approved, will Columbia be able**
20 **to be more cost efficient in repairing or replacing customer service lines that**
21 **are deemed to be hazardous?**

22 A.13. No. Columbia estimates its cost to repair or replace a customer service line to be
23 approximately \$1,000. USP's estimated cost is \$910. Columbia is merely taking

its less efficient cost and recovering it over a larger customer base. I do not consider Columbia's approach to be more cost efficient.

Q.14. Will there be a need for Columbia to work with the Staff on a plan for general customer notification in education around changes incurred to meet a responsibility, complaint handling, and reimbursement of the customer if the Stipulation and Recommendation is not approved?

A.14. No.

Q.15. Under the Stipulation and Recommendation, is Columbia assuming financial responsibility for the repair or replacement of customer service lines when a leak condition in a customer service line is deemed by Columbia to be hazardous?

A.15. No. Under the Stipulation and Recommendation, Columbia's customers would be involuntarily required to assume such financial responsibility.

Q.16. Under the Stipulation and Recommendation, will Columbia assume responsibility for installing customer service lines in new building construction?

A.16. No. It appears that the current system where the customer service line would be installed by a DOT OQ contractor and inspected by Columbia works well and will continue for construction of new buildings.

Q.17. Under the Stipulation and Recommendation, have landowners agreed to forfeit ownership of customer service lines to Columbia?

A.17. No.

1 **Q.18. Under the Stipulation and Recommendation, will the definition of hazardous**
2 **conditions eliminate customer confusion regarding ownership of customer**
3 **service lines?**

4 A.18. First of all, it is very clear that the customer owns and is responsible for the
5 customer service line and all of the house lines and ancillary lines on the
6 customer's property. But if the Stipulation and Recommendation were to be
7 approved, Mr. Ramsey, at page 5, lines 7-9 of his testimony in support of the
8 Stipulation, states that the Stipulation and Recommendation will "create a
9 minimal number of situations where a property owner could still contact a DOT
10 OQ plumber to perform work on a customer service line." Further, at page 4,
11 lines 14-16, Mr. Ramsey explains that Original Sheet No. 6a, "the property owner
12 will continue to own the customer service line until such time as a repair or
13 replacement of the facilities is required." This will result in a situation where at
14 any given time some customers will own their customer service lines or the
15 portions that have been repaired while others may not. Customer confusion will
16 not be eliminated, but rather will be created by the Stipulation and
17 Recommendation.

18 **Q.19. Do any of the proposed tariff changes under the Stipulation and**
19 **Recommendation address the situation where a non-rate payer owns a**
20 **customer service line?**

21 A.19. No. In fact, the Stipulation and Recommendation will result in Commission
22 regulation of non-rate payers by transferring responsibility for hazardous
23 customer service line leaks and ownership of repaired or replaced customer

1 service lines to Columbia. This exceeds the Commission's regulatory authority
2 and violates an important regulatory principle.

3 **Q.20. What should the Commission do in this case?**

4 A.20. The Commission should continue with the replacement of prone to leak risers as
5 Columbia has set forth in its proposal, but there is no justification or evidence to
6 justify changing the ownership of or assumption of financial responsibility for
7 customer service lines.

8 **Q.21. Does this conclude your testimony in opposition to the Stipulation and**
9 **Recommendation?**

10 A.21. Yes, it does.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Testimony of Philip E. Riley, Jr. in opposition to the Stipulation and Recommendation was served upon the following persons by electronic mail and by first class U.S. mail, postage prepaid this 28th day of November, 2007:

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Summary: Testimony Testimony of Philip E. Riley Jr. on behalf of Utility Service Partners, Inc. in opposition to Stipulation and Recommendation electronically filed by Stephen M Howard on behalf of Utility Service Partners, Inc.