

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Investigation of :  
Columbia Gas of Ohio, Inc. Relative to :  
Its Compliance with the Natural Gas : Case No. 10-459-GA-GPS  
Pipeline Safety Standards and Related :  
Matters. :

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STIPULATION AND RECOMMENDATION

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Rule 4901-1-30, Ohio Administrative Code (O.A.C.) provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of Columbia Gas of Ohio, Inc. ("Columbia or Company") and the Staff ("Staff") of the Public Utilities Commission of Ohio ("Commission"). Columbia and Staff<sup>1</sup> are ("Parties") to this Stipulation and Recommendation ("Stipulation"), and recommend that the Commission approve and adopt this Stipulation, which resolves all of the issues in this case.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of the issues raised in this proceeding; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable Parties to resolve the issues. While this Stipulation is not binding

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<sup>1</sup> Pursuant to O.A.C. 4901-1-10(C) and 4901-1-30, Staff is deemed a party for purposes of entering into this Stipulation.

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on the Commission, it is entitled to careful consideration by the Commission. For purposes of resolving certain issues raised by this proceeding, the Parties stipulate, agree and recommend as set forth below. Except for dispute resolution purposes in this proceeding, neither this Stipulation, nor the information and data contained therein or attached, shall be cited as precedent in any future proceeding for or against either Party, or the Commission itself. Nothing in this Stipulation is intended to limit the Commission's statutory enforcement authority. This Stipulation is a reasonable compromise involving a balancing of competing positions and it does not necessarily reflect the position that either Party would have taken if these issues had been fully litigated.

The Signatory Parties fully support this Stipulation and urge the Commission to accept and approve the terms found below.

All of the related issues and concerns raised by the Parties have been addressed in the substantive provisions of this Stipulation and reflect, as a result of such discussions and compromises by the Parties, an overall reasonable resolution of all such issues. This Stipulation is the product of the discussions and negotiations of the Parties and is not intended to reflect the views or proposals that either Party may have advanced acting unilaterally. Accordingly, this Stipulation represents an accommodation of the diverse interests represented by the Parties and is entitled to careful consideration by the Commission;

This Stipulation represents a serious compromise of complex issues and involves substantial benefits that would not otherwise have been achievable; and

The Parties believe that the agreements herein represent a fair and reasonable solution to the issues raised in this case;

The Parties stipulate, agree and recommend that the Commission make the following findings and issue its Opinion and Order in this case approving this Stipulation in accordance with the following:

1. Columbia Gas of Ohio, Inc. is a natural gas company within the meaning of R.C. 4905.02, 4905.03(A)(6) and 4905.90(G)(I), and is therefore a public utility and an operator subject to the ongoing jurisdiction and supervision of the Commission pursuant to R.C. 4905.02, 4905.04, 4905.05, 4905.06 and 4905.90 through 4905.96, respectively. Accordingly, Columbia is required to comply with the gas pipeline safety ("GPS") rules in O.A.C. Chapter 4901:1-16, which set forth the safety standards and requirements for intrastate gas pipeline facilities subject to the Commission's jurisdiction. The GPS rules include the United States Department of Transportation's GPS standards and requirements contained in Title 49 C.F.R. Parts 191, 192, 199 and 40, which the Commission adopted *In the Matter of Adopting Chapter 4901:1-16 of the Ohio Administrative Code*, Case No. 90-1031-GE-ORD and which the Commission has revised at various times, most recently *In the Matter of the Commission's Review of Certain Rules in Chapter 4901:1-16, Ohio Administrative Code, to Incorporate Recent Changes in Federal Regulations*, Case No. 07-241-GA-ORD, and which is codified as O.A.C. 4901:1-16-03.

2. Columbia maintains a gas distribution pipeline system that provides service to more than 1.3 million customers in Ohio.
3. The Gas Pipeline Safety Staff of the Commission investigated a fire at 21081 Westwood Drive, Strongsville, Ohio that occurred on November 27, 2008. The fire was caused by a release of gas from a jurisdictional pipeline that resulted in estimated property damage of \$50,000 or more to the property of a commercial retail customer of Columbia, meeting the definition of an "incident" according to O.A.C. 4901:1-16-01. The incident was reportable to both the Commission and the U.S. Department of Transportation under O.A.C. 4901:1-16-05(A)(1) and 49 C.F.R. 192. Staff observed that a mechanical compression coupling joining the service line to the riser failed. The cause of the failure was not readily identifiable.
4. 49 C.F.R. 192.617 requires that operators establish procedures for analyzing accidents and failures, including the selection of samples of the failed facility or equipment for laboratory examination, where appropriate, to determine the causes of the failure and minimize the possibility of recurrence. Staff found Columbia in probable non-compliance with 49 C.F.R. 192.617 on the grounds that under the Company's own Operation and Maintenance Plan (OMP) and Part 192.617 Columbia was obligated to actively secure and preserve the integrity of the incident site and, because the cause of the failure was not readily identifiable, to perform or cause to be performed further investigation and analysis on the failed

component. Staff alleges that given the opportunity to do so, Columbia failed to demonstrate to Staff that it actively and diligently made efforts to carry out these obligations.<sup>2</sup>

5. Columbia agrees to address this matter by modifying its procedures to specifically require, in the case of a reportable incident, that its employees will pursue all lawful efforts to take possession of the failed facility or equipment for the purpose of laboratory examination. Further, the procedures will be modified to state that if despite Columbia's due diligence, the Company is unable to secure the failed facility or equipment, Columbia agrees to notify the customer or property owner in possession of the facility or equipment of Columbia's duty to perform analysis and testing, and its willingness to take possession of the evidence for purposes of laboratory examination if the customer is unable or unwilling to do so.
6. Columbia also agrees to pay the Staff's recommended civil forfeiture in the amount of ten thousand dollars (\$10,000.00) upon issuance of the Commission's Opinion and Order in this case.
7. Columbia agrees that any and all of the above civil forfeiture payment made as a result of this Stipulation will not be collected from customers.

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<sup>2</sup> *In re Columbia Gas of Ohio, Inc.*, Case No. 10-459-GA-GPS (Staff Report of Investigation) (April 12, 2010).

8. The Parties agree that nothing in this Stipulation shall be interpreted to preclude the Commission from opening a GPS case or any other case, assessing other forfeitures and ordering remedies against Columbia for any other violation of the GPS rules uncovered during Staff audits during any other period. By entering into this Stipulation, Columbia does not admit the accuracy of any factual allegation or any proposition, interpretation or conclusion of law, except with regard to the information expressly set forth in the introductory paragraphs one (1) and two (2) of this Stipulation regarding the jurisdiction of the Commission and Columbia's customer service base.
9. The Staff Report of Investigation filed with the Docketing Division of the Commission on April 12, 2010 should be identified and admitted into evidence as Staff Exhibit 1.
10. This Stipulation shall be designated as Joint Exhibit 1 and admitted into evidence in this proceeding.
11. This Stipulation constitutes a compromise resolution by the Parties of all issues raised by the Parties in this case only for the period of time covered by the Stipulation. The Parties agree that if the Commission rejects all or any part of this Stipulation, or otherwise materially modifies its terms, either Party shall have the right, within thirty (30) days after the date of the Commission's Order, either to file an application for rehearing or to terminate and withdraw from the Stipulation by fil-

ing a notice of termination and withdrawal with the Commission in this proceeding. If an application for rehearing is filed and if the Commission does not, on rehearing accept the Stipulation without material modification, Columbia may terminate and withdraw from the Stipulation by filing a notice of termination and withdrawal with the Commission in this proceeding within ten (10) business days after the date of the Commission's Entry on Rehearing. Upon filing of a notice of termination and withdrawal by Columbia, the Stipulation shall immediately become null and void. In such event, a hearing shall go forward and the parties shall be afforded the opportunity to present evidence through witnesses, cross-examine all witnesses, present rebuttal testimony, file briefs on all issues, and to have this proceeding decided on the record and briefs as if this Stipulation had never been executed.

12. The Parties understand and agree that while this Stipulation is not binding on the Commission, it is entitled to the Commission's careful consideration. The Parties agree that the Stipulation promotes sound regulatory policy and the public interest and they urge the Commission to adopt this agreement.

The undersigned hereby stipulate and agree and each represents that it is authorized to enter into this Stipulation and Recommendation this 3<sup>rd</sup> day of May, 2010.

**COLUMBIA GAS OF OHIO, INC.**

**THE STAFF OF THE PUBLIC  
UTILITIES COMMISSION OF OHIO**

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