

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Columbia Gas of Ohio, Inc. for Approval) Case No. 11-5351-GA-UNC
to Implement a Capital Expenditure)
Program.)

In the Matter of the Application of)
Columbia Gas of Ohio, Inc. for Approval) Case No. 11-5352-GA-AAM
to Change Accounting Methods.)

**REPLY COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL

Joseph P. Serio, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-9565
serio@occ.state.oh.us

February 27, 2012

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. COMMENTS	2
A. Reply to OPAE’s Comments	2
B. Reply to PUCO Staff’s Comments	3
1. The PUCO Staff recommendation that total monthly deferred regulatory assets should be net of any incremental revenue.	3
2. The PUCO Staff recommendation that monthly deferred Post In-Service Carrying Charges (“PISCC”) should be net of accumulated depreciation.	5
3. The PUCO Staff recommendation that deferred PISCC should be calculated using the one-month lag method.....	6
4. The PUCO Staff recommended that Columbia be required to make annual informational filings.	6
5. The PUCO Staff noted that Columbia’s capital spending under the CEP is not incremental.	8
III. CONCLUSION	9

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Columbia Gas of Ohio, Inc. for Approval) Case No. 11-5351-GA-UNC
to Implement a Capital Expenditure)
Program.)

In the Matter of the Application of)
Columbia Gas of Ohio, Inc. for Approval) Case No. 11-5352-GA-AAM
to Change Accounting Methods.)

INITIAL COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

On October 3, 2011, Columbia Gas of Ohio, Inc. (“Columbia” or “the Company”) filed an Application for an estimated \$76 million Capital Expenditure Program (“CEP”), a program that could ultimately result in rate increases for Ohio customers.¹ The Application was the first CEP Application filed by a Local Distribution Company (“LDC”) pursuant to R.C. 4909.18 and 4929.111. The CEP Application was for an Alternative Regulation case not for an increase in rates for the period October 1, 2011 through December 31, 2012.² A CEP represents an opportunity for a gas utility to seek recovery of Post in Service Carrying Charges (“PISCC”) on assets that are placed in service but not yet included in the Company’s rates as plant in service, deferral of depreciation expenses of those facilities, and deferral of property taxes associated with

¹ Columbia Application at Attachment A.

² Columbia Application at 1.

those facilities. On October 12, 2011, the Office of the Ohio Consumers' Counsel ("OCC") filed a Motion to Intervene in these cases. On October 18, 2011, the Ohio Partners for Affordable Energy ("OPAЕ") filed a Motion to Intervene. On January 27, 2012, the Attorney Examiner issued an Entry that granted the OCC and OPAЕ Motions to Intervene, and also established a procedural schedule for Initial Comments (due February 17, 2012) and Reply Comments (due February 27, 2012). On February 17, 2012, Staff, OCC and OPAЕ filed Comments. OCC is submitting these Reply Comments to the Comments filed by Staff and OPAЕ pursuant to that schedule.

II. COMMENTS

A. Reply to OPAЕ's Comments

The OPAЕ Comments focus on two items: A) that the Application failed to specify the total costs of the CEP as required by R.C. 4929.111;³ and B) that the Application failed to adequately describe the proposed CEP and how it is consistent with the requirements of R.C. 4905.22 and R.C. 4929.111(C).⁴ The OCC agrees with both of OPAЕ's comments which are consistent with comments raised by the OCC.⁵ A failure to meet the requirements set forth in R.C. 4929.111 might enable Columbia to recover from customers carrying costs on plant that is not necessary to provide adequate service. Because the Columbia CEP Application fails to meet the requirements of R.C. 4929.111, R.C. 4905.22 and R.C. 4909.18, the OCC urges the PUCO to reject the Application.

³ OPAЕ Comments at 2.

⁴ OPAЕ Comments at 3.

⁵ See OCC Comments at 1-5.

B. Reply to PUCO Staff's Comments

1. The PUCO Staff recommendation that total monthly deferred regulatory assets should be net of any incremental revenue.

The Staff recommended that the total monthly deferred regulatory assets should be net of any incremental revenues.⁶ Staff stated that new and additional revenues from the new and additional plant needs to be recognized in order to prevent the possibility that Columbia would realize earnings above its allowable rate of return as set in Columbia's 2008 rate case.⁷

The Staff states that there should be a consistent recognition of the revenue earned from the investment in plant as a result of the CEP because the Company will be recognizing the expenses associated with the same plant. This is the accounting and regulatory principle of matching revenue to expenses. Therefore, the Staff recommends revenues from the "Growth" and "Acquisition of Assets" categories should be recognized in the CEP. In other words, recognizing the revenues and not only the expenses would benefit consumers by reducing the impact of the PISCC and expense deferrals.

However, as noted in OCC's Comments, those revenues should include new revenues from new customers from "Growth," new revenues from new customers from "Acquisition of Assets," **and** incremental new revenues from **existing** customers from "Growth" or "Acquisition of Assets" (i.e. capacity expansion).⁸ OCC recommends this approach because it would recognize all of the new and additional revenues from the new and additional plant from current and new customers and thus more accurately match the recognition of expenses on the plant.

⁶ Staff Comments at 8-9.

⁷ Staff Comments at 11-12.

⁸ OCC Comments at 6.

In addition, the Staff recognized that, with Columbia's change to a Straight Fixed Variable ("SFV") rate design, there was the potential for Columbia to realize earnings above its allowable rate of return as set in the Company's 2008 rate case from the new and additional revenues resulting from "Growth" or "Acquisition of Assets" plant.⁹ Thus, the Staff believes the further recognition of those revenues will better match the treatment of expenses and eliminate the possibility of double recovery. OCC agrees.

Staff identified two different methods to match revenues and expenses from capital expenditures. Staff recommended the second of those two methods. The second method is a modification of the Company's formula for calculating the total monthly deferral and would net out incremental revenue from deferrals in the monthly calculation of the deferred regulatory asset.¹⁰ OCC endorses the Staff recommendation because it is a reasonable approach to help prevent double recovery of PISCC, depreciation or property taxes.

For the most part, OCC would also agree with Staff's calculation of incremental revenues used in the determination of the total monthly deferral.¹¹ OCC suggests that Staff further modify the formula to recognize not only incremental revenue due to new customer growth but also incremental revenue associated with **existing** customers due to investment in the "Growth" or "Acquisition of Assets." (i.e. capacity expansion) categories of the CEP. In terms of the incremental revenue formula proposed by Staff, Staff should add some clarity in terms of how exactly the "cost portion of rate"¹² would

⁹ Staff Comments at 10-11.

¹⁰ Staff Comments at 10.

¹¹ Id.

¹² Id.

be determined and the significance of its inclusion in the incremental revenue calculation. Thus, OCC is requesting that additional revenues related to capacity expansion due to existing customers be recognized because it would further lower the cost impact of PISCC and expense deferrals upon the customer.

2. The PUCO Staff recommendation that monthly deferred Post In-Service Carrying Charges (“PISCC”) should be net of accumulated depreciation.

The Staff recommended that the monthly deferred PISCC should be net of accumulated depreciation in order to prevent Columbia from collecting carrying charges on an expense item.¹³ OCC endorses the Staff recommendation because it would prevent Columbia from deferring carrying charges on depreciation expense, which serves as a return on investment. PISCC should not be calculated on an expense item, especially one being deferred for future recovery.

In its initial comments, OCC also recommended that the PISCC be calculated net of retirements¹⁴ and had cited precedent for doing so in the first Accelerated Main Replacement Program initiated by Duke Energy Ohio (formerly the Cincinnati Gas and Electric Company).¹⁵ A review of Staff’s comments has not changed our position on this issue.

¹³ Staff Comments at 11.

¹⁴ See OCC Comments at 8-9.

¹⁵ *In the Matter of the Application of the Cincinnati Gas & Electric Company for an Increase in Gas Rates for its Service Area*, Case No. 01-1228-GA-AIR, Supplemental Direct Testimony of Lee T. Howe February 28, 2003) at 2; Stipulation and Recommendation (April 17, 2002) at 8 which was approved by the PUCO, Opinion and Order (May 30, 2002).

3. The PUCO Staff recommendation that deferred PISCC should be calculated using the one-month lag method.

The Staff recommended using the one-month lag method instead of the half-month lag method in calculating PISCC.¹⁶ Staff correctly pointed out that the one-month method is a more accurate method because it does not include estimates of new and additional plant, rather it relies on actual plant additions.¹⁷

Moreover, as noted by Staff, Columbia currently uses the one-month lag method in calculating PISCC for its Infrastructure Replacement Program.¹⁸ Thus in addition to being a more accurate calculation, the one-month lag method is consistent with other Columbia PISCC calculations. OCC endorses the one-month lag method to calculate PISCC because it would better reflect actual plant additions, as opposed to estimates.

4. The PUCO Staff recommended that Columbia be required to make annual informational filings.

The Staff recommended that Columbia be required to make annual informational filings detailing the CEP investment deferrals.¹⁹ OCC agrees with the need for such information to be maintained and provided to the parties in this proceeding through an annual filing. The filings are appropriate because it would make any future regulatory review more complete. The information Staff recommends be filed annually will provide details as to the CEP capital investments and calculation of deferrals during the deferral period. This will provide for an easier audit trail at the time of the Company's next rate case when recovery of the deferrals will be requested from customers in base rates.

¹⁶ Staff Comments at 12.

¹⁷ Staff Comments at 12.

¹⁸ Staff Comments at 12.

¹⁹ Staff Comments at 13.

However, OCC would add that any such filings should include the calculations of the PISCC as well as detailed explanation of how the PISCC was determined and why those calculations were performed. Such additional information will make it much easier for all interested parties to monitor the CEP deferral calculations. OCC would also recommend that, to the extent possible, the deferrals shown in these annual informational filings be broken down by the budget classes shown on Attachment A of the Company's Application in this case in order to provide additional clarity to any future regulatory review.

OCC would suggest that the annual informational filings only need to be made to encompass the time period recommended by OCC in its initial comments -- which is through December 31, 2014 or on the date of new base rates going into effect, whichever date comes first in order to avoid a situation where the deferrals would continue to grow into the future without some certainty as to when final regulatory review would occur.²⁰ Moreover, OCC would add that Columbia should be required to explain in the annual filings how the CEP spending for that period “**is consistent with the natural gas company's obligation under section 4905.22** of the Revised Code to furnish **necessary and adequate services and facilities, * * ***” as required by R.C. 4929.111. Such additional information and explanation will ultimately aid the parties and the Commission in determining if the spending was just and reasonable in all respects as required by R.C. 4905.22.

²⁰ OCC Comments at 12.

5. The PUCO Staff noted that Columbia’s capital spending under the CEP is not incremental.

The Staff noted that the capital spending proposed by Columbia in the CEP is not incremental spending in addition to its historic spending, but is actually less than its historical spending levels.²¹ That is correct.

When Ohio’s natural gas companies argued the need for and support of House Bill 95, they argued that the extra return on their investment offered by the new law was “vital” to attracting capital to Ohio, instead of it being spent in other states’ service territories.²² Columbia stressed the need to be able to attract and facilitate investments that were vital to Ohio’s economic vitality.²³

Yet as noted by the PUCO Staff, the CEP spending in this Application does not represent any incremental spending over the levels of recent historic capital spending.²⁴ Thus, Columbia’s Application does not even meet the standards that the Company argued as the basis for the need for it to obtain the ability to implement a capital expenditure program. When this shortcoming is added to Columbia’s failure to meet its statutory burden²⁵ of proving that the CEP spending for that period “**is consistent with the natural gas company’s obligation under section 4905.22** of the Revised Code to furnish **necessary and adequate services and facilities, * * ***”²⁶ it is clear that the Application is not reasonable and should be rejected.

²¹ Staff Comments at 13-14.

²² Testimony of Jeff Murphy, Managing Director of Commercial Operations, before the Public Utilities Committee (February 23, 2011).

²³ Testimony of Jack Partridge, President of Columbia, before the House Public Utilities Committee (February 23, 2011) at 1.

²⁴ Staff Comments at 14.

²⁵ R.C. 4909.18.

²⁶ R.C. 4929.111 and R.C. 4905.22.

III. CONCLUSION

Columbia's Application was made pursuant to R.C. 4929.111 and R.C. 4909.18.²⁷

R.C. 4909.18 clearly puts the burden of proof on Columbia. R.C. 4929.111 specifically requires that:

the capital expenditure program is consistent with the natural gas company's obligation under section 4905.22 of the Revised Code to furnish necessary and adequate services and facilities, which services and facilities the commission finds to be just and reasonable, the commission shall approve the application.²⁸

R.C. 4905.22 states that:

Every public utility shall furnish necessary and adequate service and facilities, and every public utility shall furnish and provide with respect to its business such instrumentalities and facilities, as are adequate **and in all respects just and reasonable.**²⁹

Because Columbia's Application is lacking in sufficient detail to enable a finding that the Capital Expenditure Program spending is needed to provide necessary and adequate services and facilities to the public, the Capital Expenditure Program cannot be just and reasonable in all respects. This fatal flaw cannot be overlooked.

Moreover, there is no evidence that Columbia's Application is for the type of incremental spending that the Company and other supporters of HB 95 touted as the basis for the need for Post in Service Carrying Charges recovery. Allowing a natural gas utility the ability to defer depreciation and property taxes and the unusual benefit of deferring carrying charges after the in-service date of incremental capital expenditures for future collection from customers was supposed to benefit customers by reducing the need and frequency of rate cases. That customer benefit hasn't happened here as there is no

²⁷ Columbia Application at 1.

²⁸ R.C. 4929.111(C). (Emphasis added).

²⁹ R.C. 4905.22. (Emphasis added).

documentation of any incremental capital expenditures. The PUCO should reject the Application. However, if the PUCO determines that the Application is reasonable, then OCC urges the PUCO to make the modifications discussed in OCC's Comments and in the above reply.

Respectfully submitted,

BRUCE J. WESTON
INTERIM CONSUMERS' COUNSEL

/s/ Joseph P. Serio

Joseph P. Serio, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-9565
serio@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Reply Comments* was served via electronic service to the persons listed below on this 27th day of February 2012.

/s/ Joseph P. Serio _____
Joseph P. Serio
Assistant Consumers' Counsel

SERVICE LIST

Brook E. Leslie
Stephen B. Seiple
Columbia Gas of Ohio Inc.
200 Civic Center Drive
P.O Box 117
Columbus, Ohio 43216-0117
bleslie@nisource.com
sseiple@nisource.com

Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
P.O. Box 1793
Findlay, Ohio 45839-1793
cmooney2@columbus.rr.com

William Wright
Stephen Reilly
Public Utilities Commission of Ohio
180 East Broad Street, 6th Floor
Columbus, Ohio 43215
william.wright@puc.state.oh.us
Stephen.reilly@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

2/27/2012 5:07:36 PM

in

Case No(s). 11-5351-GA-UNC, 11-5352-GA-AAM

Summary: Comments Reply Comments by the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Serio, Joseph P.