

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Annual Application)
of Columbia Gas of Ohio, Inc., for an)
Adjustment to Rider IRP and Rider DSM) Case No. 11-5803-GA-RDR
Rates to Recover Costs Incurred in 2011.)

OPINION AND ORDER

The Commission, having considered the record in this matter and the stipulation and recommendation submitted by the signatory parties, and being otherwise fully advised, hereby issues its opinion and order.

APPEARANCES:

Stephen B. Seiple, Assistant General Counsel, and Brooke E. Leslie, Counsel, Columbia Gas of Ohio, Inc., 200 Civic Center Drive, P.O. Box 117, Columbus, Ohio 43216-0117, on behalf of Columbia Gas of Ohio, Inc.

Mike DeWine, Ohio Attorney General, by Steven L. Beeler, Assistant Attorney General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of the Staff of the Commission.

Bruce J. Weston, Ohio Consumers' Counsel, by Larry S. Sauer and Joseph P. Serio, Assistant Consumers' Counsel, 10 West Broad Street, Columbus, Ohio 43215-3485, on behalf of the residential utility consumers of Columbia Gas of Ohio, Inc.

Colleen L. Mooney, 231 West Lima Street, Findlay, Ohio 45840, on behalf of Ohio Partners for Affordable Energy.

OPINION:

I. History of the Proceeding

Columbia Gas of Ohio, Inc. (Columbia) is a natural gas company as defined in Section 4905.03(A)(5), Revised Code, and a public utility under Section 4905.02, Revised Code. Columbia supplies natural gas to 1.4 million customers in 60 counties in Ohio (Staff Ex. 1 at 2).

By opinion and order issued December 3, 2008, in *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Authority to Amend Filed Tariffs to Increase the Rates and Charges for Gas Distribution Service*, Case No. 08-72-GA-AIR et al. (*Columbia Distribution Rate Case*), the Commission approved a stipulation which, *inter alia*, included a provision establishing

the infrastructure replacement program rider (Rider IRP) and the demand-side management rider (Rider DSM) and directing Columbia to update Rider IRP and Rider DSM in a single case annually.

The purpose of Rider IRP is to recover the costs incurred by Columbia for: future maintenance, repair, and replacement of customer-owned service lines that present an existing or probable hazard to persons or property, and the replacement of certain risers prone to failure over a period of three years¹; the accelerated main replacement program (AMRP), which includes replacement of cast iron, wrought iron, unprotected coated steel, and bare steel pipe in the company's distribution system, and metallic service lines; and the installation, over a five-year period, of automatic meter reading devices (AMRD) on all residential and commercial meters. In accordance with the stipulation approved in the *Columbia Distribution Rate Case*, Rider IRP was to be in effect for the lesser of five years or until new rates become effective as a result of Columbia filing an application for an increase in rates. In addition, the stipulation approved in the *Columbia Distribution Rate Case* provided that the rider would be adjusted annually to account for any over- or under-recovery and the company was to file applications annually, supporting adjustments to the Rider IRP rates. The stipulation approved in the *Columbia Distribution Rate Case* set a cap on the Rider IRP charges for small general service (SGS) class customers of \$1.10, \$2.20, \$3.20, \$4.20, and \$5.30 for the charges that become effective on May 1 of each year in 2009, 2010, 2011, 2012, and 2013, respectively.

The purpose of Rider DSM is to recover costs incurred in the implementation of DSM programs approved in the Commission's finding and order issued July 23, 2008, in *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval of a Demand Side Management Program for Residential and Commercial Customers*, Case No. 08-833-GA-UNC (DSM Case). The stipulation approved in the *Columbia Distribution Rate Case* provides that the procedure for adjusting Rider DSM is identical to the filing procedure for adjusting Rider IRP. During the year covered by the current application, Columbia administered the following DSM programs: Home Performance Solutions, Simple Energy Solutions, New Home Solutions, Furnace Market Research, Small Business Energy Solutions, Ohio Small Business Energy Saver Audits, Energy Design Solutions, Energy Efficiency Loan Fund, Program Administration, and Program Development. (Staff Ex. 1 at 12-13.)

The stipulation in the *Columbia Distribution Rate Case* further defined the process for consideration of the periodic adjustments to Rider IRP and Rider DSM. In accordance with the stipulation, within 30 days of the Commission's order adopting the stipulation

¹ It is noted in the stipulation in the *Columbia Distribution Rate Case* that the replacement of customer-owned service lines and prone-to-failure risers was approved by the Commission in *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, et al., Opinion and Order (April 9, 2008).

and annually by November 30 thereafter, Columbia will file a prefiling notice to implement adjustments to the riders. Subsequently, Columbia will file its application and an update of year-end actual data by the following February 28 of each year. The stipulation provides that Staff and other parties then may file comments and that 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 of the process set forth in the stipulation is for the proposed amendments to the riders to be effective on May 1 of each year.

In accordance with the provisions of the stipulation in the *Columbia Distribution Rate Case*, Columbia filed its prefiling notice on November 30, 2011, in the instant case. Thereafter, on February 28, 2012, 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, 2011, and ending December 31, 2011, with a date certain of December 31, 2011, for property valuation (Columbia Ex. 2 at 4).

By an entry issued on March 7, 2012, the attorney examiner granted the motions to intervene in this case filed by Ohio Partners for Affordable Energy (OPAE) and the Ohio Consumers' Counsel (OCC) and required that Staff and intervenors file comments on the application by March 28, 2012. The March 7, 2012, entry also required that Columbia file a statement by April 2, 2012, informing the Commission whether the issues raised in the comments had been resolved. Further, in the event that any issue raised in the comments had not been resolved, the entry set the hearing in the matter for April 11, 2012.

On March 28, 2012, Staff, OCC, and OPAE filed comments raising issues regarding Columbia's application in this case. On April 2, 2012, Columbia filed a statement requesting that the April 11, 2012, hearing go forward because the parties had not yet reached an agreement on the issues raised in the comments.

Thereafter, on April 10, 2012, Columbia filed a stipulation and recommendation (stipulation) signed by Columbia, Staff, OCC, and OPAE.

The hearing in this matter was conducted as scheduled on April 11, 2012, at the offices of the Commission. At the hearing, the following exhibits were admitted into the record without objection: the parties jointly submitted the stipulation (Joint Ex. 1); Columbia submitted its prefiling notice (Columbia Ex. 1); the application filed on February 28, 2012 (Columbia Ex. 2); and the testimony of Columbia's witnesses (Columbia Exs. 3-7). OCC submitted its comments filed on March 28, 2012 (OCC Ex. 1). Staff submitted its comments filed on March 28, 2012 (Staff Ex. 1). Additionally, OPAE submitted its comments filed on March 28, 2012 (OPAE Ex. 1).

II. Summary of the Application and Comments

A. Rider IRP

According to Columbia, the order in the *Columbia Distribution Rate Case* provided for the recovery of return on and return of Columbia's capitalized AMRP, riser, hazardous service line, and AMRD investments, in addition to the related costs, such as program operating expenses and deferred expenses (Columbia Ex. 3 at 4-5). In 2011, the company completed 466 AMRP projects at a cost of approximately \$107.5 million, replaced 23,749 risers at a cost of approximately \$11.9 million, and replaced 8,577 hazardous service lines at a cost of approximately \$24.9 million (Columbia Ex. 4 at 2). Additionally, during 2011, more than 440,000 AMRD units were installed (Columbia Ex. 5 at 6).

Columbia submits that, for rates effective May 2012, the total annual revenue requirement for Rider IRP would be \$69,243,122. This total is comprised of \$28,164,217 for the AMRP, \$33,358,462 for the riser program, and \$7,720,442 for the AMRD program (Columbia Ex. 1 at Att. A, Sch. AMRP-11; Sch. R-11; Sch. AMRD-11). If the rates go into effect May 1, 2012, Columbia proposes that the rates for the SGS class customers be set at \$3.61 per customer, which is less than the cap of \$4.20 per month approved as a mechanism limiting the IRP rate in the *Columbia Distribution Rate Case* (Columbia Ex. 2 at Att. A; Columbia Ex. 3 at 15). Furthermore, as proposed by Columbia in its application, the May 1, 2012, Rider IRP rates would be \$17.64 for general service (GS) customers, and \$314.15 for large general service (LGS) customers (Columbia Ex. 2 at Att. A).

In its comments, Staff recommends one change to the overall application. Staff recommends that Columbia's property tax calculation should use the latest known rate. Specifically, Staff notes that, in schedules showing the calculation of the 2011 property taxes associated with the AMRP, Risers, and AMRD, Columbia used an estimated tax rate to compute the applicable property tax. Staff states that use of the latest known property tax rate would be consistent with past practice and Commission rulings. Staff further states that, applying the latest known rate causes a slight increase in Columbia's total IRP revenue requirement from \$69,243,122 to \$69,285,604. Staff calculates that this will result in a minimal increase from \$17.64 per month to \$17.65 per month for GS customers, but the rates for SGS and LGS customers would remain unchanged. (Staff Ex. 1 at 10-11.)

In its comments, OCC disputes Columbia's characterization of the operation and maintenance (O&M) cost savings methodology as being informally agreed upon by the parties. OCC states that there were discussions among the parties regarding different methodologies to calculate O&M cost savings, but no formal or informal agreement was reached. Additionally, OCC contends that the level of O&M cost savings reported by Columbia in this case is inadequate and requests that the Commission re-emphasize its goal of significant accelerated O&M cost savings for customers and order Columbia to

guarantee at least \$1 million in O&M cost savings each year. Next, OCC argues that the Commission should limit Columbia's recovery of costs in the IRP to customers in the incremental accelerated main replacements. OCC argues that this limitation would be consistent with the *Columbia Distribution Rate Case* and would result in an average reduction to the IRP rate of \$0.04 for a residential customer. Finally, OCC argues that the Commission should exclude the costs related to the replacement of plastic pipe from the IRP monthly charge. Specifically, OCC argues that the *Columbia Distribution Rate Case* did not provide for the recovery of the replacement of plastic mains through the IRP Rider. OCC argues that the elimination of the costs associated with plastic main replacement would result in an average reduction to the IRP rate of \$0.04 for a residential customer. (OCC Ex. 1 at 3-14.)

OPAE, in its comments, states that its primary concern is the low level of O&M cost savings given the level of investment that Columbia has made in the AMRP. OPAE states that, given the low level of O&M savings, it appears that the benefit of the AMRP for ratepayers has been oversold. OPAE states that this should cause the Commission to recognize that the savings benefits of the AMRP have not materialized and question the reasonableness of the AMRP and Rider IRP going forward. (OPAE Ex. 1 at 1-4.)

B. Rider DSM

According to Columbia and Staff, the orders in the *Columbia Distribution Rate Case* and the *DSM Case* provide Columbia with authority to recover costs related to the implementation of a DSM program that enables customers to reduce bills through various conservation programs. (Staff Ex. 1 at 11; Columbia Ex. 6 at 2). The total revenue requirement for Rider DSM would be \$14,158,887 (Columbia Ex. 2 at Att. A). As proposed in the application, the rate for Rider DSM would be \$0.124 per thousand cubic feet (Mcf) for the SGS class (Columbia Ex. 2 at Att. B).

Staff comments that, based on its review, Columbia utilized appropriate accounting procedures reflecting proper accounting methods. Further, Staff comments that its audit of the level of administrative expenses in this year's DSM application meets applicable criteria and that no expenses for these programs should be disallowed. Finally, Staff comments that Columbia's 2012 budget and program spending levels are within the guidelines set by the 2011 DSM Collaborative, and notes that participation in Columbia's DSM programs continued to increase during the initial test period and is projected to increase in 2012. (Staff Ex. 1 at 12-14.)

OCC and OPAE did not make any recommendations with respect to the DSM portion of Columbia's application.

III. Stipulation

As stated previously, a stipulation signed by Columbia, Staff, OCC, and OPAE was filed on April 10, 2012. The stipulation was intended by the signatory parties to resolve all outstanding issues in this proceeding. The stipulation includes, *inter alia*, the following provisions:

- (1) The total annual revenue requirement for Rider IRP should be \$68,455,040 and \$14,158,887 for DSM.
- (2) The monthly Rider IRP rates shall be \$3.57, \$17.67, and \$314.15 for the SGS, GS, and LGS class customers, respectively.
- (3) The monthly rate for Rider DSM for the applicable rate schedules shall be \$0.124 per Mcf.
- (4) The stipulation is a "black box" resolution of OCC's issues in which the parties have agreed upon SGS rates for Rider IRP that are lower than those in Columbia's application. The stipulation is a resolution of all OCC issues without specifically addressing the resolution of individual issues. Additionally, the stipulation adjusts the revenue requirement to include Staff's recommended adjustment for the use of an actual property tax rate for determination of property taxes.

(Joint Ex. 1 at 3-7, Atts. 1-2.)

IV. Consideration of the Stipulation

Rule 4901-1-30, Ohio Administrative Code, authorizes parties to Commission proceedings to enter into a stipulation. Although not binding on the Commission, the terms of such an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (1978). This concept is particularly valid where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (April 14, 1994); *Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT (March 30, 1994); *Ohio Edison Co.*, Case No. 91-698-EL-FOR et al. (December 30, 1993); *Cleveland Electric Illum. Co.*, Case No. 88-170-EL-AIR (January 31, 1989); *Restatement of Accounts and Records (Zimmer Plant)*, Case No. 84-1187-EL-UNC (November 26, 1985).

The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

The Ohio Supreme Court has endorsed the Commission's analysis using these criteria to resolve issues in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 561, 629 N.E.2d 423 (1994), citing *Consumers' Counsel* at 126. The Court stated that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission. *Id.* at 563.

The signatory parties agree that the stipulation is a product of serious bargaining among capable, knowledgeable parties, and represents a just and reasonable resolution of issues raised by the parties (Joint Ex. 1 at 2). Columbia's witness, Mr. Brown, testified that the stipulation is the product of an open process in which all parties were represented by able counsel and technical experts. Additionally, Mr. Brown points out that each party to the stipulation regularly participates in rate proceedings before the Commission and represents a broad range of interests. (Columbia Ex. 7 at 3.) Upon review of the terms of the stipulation, based upon our three-prong standard of review, the Commission finds that the first criterion has been met.

With regard to the second criterion, Mr. Brown testified that the stipulation benefits ratepayers and the public interest. Mr. Brown specifies that, because of the IRP, customers will experience fewer leaks and outages and a reduction in the need to excavate roads and streets to make repairs. Further, Mr. Brown states that installation of AMRDs will eventually enable Columbia to read meters on a monthly basis, instead of the bi-monthly schedule currently utilized. As to DSM programs, Mr. Brown states that these programs will provide residential and small customers easy access to energy savings measures, which will directly reduce natural gas usage, improving the affordability of natural gas service. Further, through negotiations, the revenue increase agreed to by the stipulating parties is \$0.8 million less than what Columbia had requested in its application. (Columbia Ex. 7 at 4-5.) Upon review of the stipulation, the Commission finds that, as a package, it satisfies the second criterion.

Finally, the signatory parties agree that the stipulation violates no regulatory principle or precedent (Joint Ex. 1 at 2). Mr. Brown asserts that the stipulation was based, in large part, on the findings and recommendations contained in the Staff Report of Investigation, which analyzed Columbia's application and made recommendations for the purpose of ensuring that the resulting rates, terms, and conditions of service comply with sound regulatory principles and practice (Columbia Ex. 7 at 5). Accordingly, upon consideration, the Commission finds that there is no evidence that the stipulation violates any important regulatory principle or practice and, therefore, the stipulation meets the third criterion.

As such, the Commission finds that the stipulation entered into by the parties is reasonable and should be adopted. Therefore, Columbia should be authorized to implement the new rates for Rider IRP and Rider DSM in a manner consistent with the stipulation and this order, and the proposed tariff pages contained in Joint Ex. 1 at Att. 1 should be approved. The Commission finds that Columbia should file, in final form, four, complete, printed copies of the final tariff pages with the Commission's docketing division, as set forth in this order. The effective date of the new rates for Rider IRP and Rider DSM shall be a date not earlier than the date upon which the final tariff pages are filed with the Commission or the first billing cycle in May, whichever is later.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Columbia is a natural gas company as defined in Section 4905.03(A)(5), Revised Code, and a public utility under Section 4905.02, Revised Code.
- (2) In accordance with the IRP and DSM provisions in the *Columbia Distribution Rate Case*, Columbia filed its prefiling notice in this case on November 30, 2011.
- (3) On February 28, 2012, Columbia filed its application.
- (4) OCC and OP&E were granted intervention.
- (5) Comments on the application in this case were filed by OCC, OP&E, and Staff on March 28, 2012. On April 2, 2012, Columbia filed a statement regarding the disputed issues.
- (6) The hearing in this matter was held on April 11, 2012.

- (7) At the hearing, a stipulation was submitted resolving all issues in this case. The stipulation was unopposed, meets the criteria used by the Commission for evaluation and, therefore, is here adopted.
- (8) Columbia is authorized to implement the new rates for Rider IRP and Rider DSM consistent with the stipulation and this order.

ORDER:

It is, therefore,

ORDERED, That the stipulation of the parties be adopted and approved. It is, further,

ORDERED, That Columbia take all necessary steps to carry out the terms of the stipulation and this order. It is, further,

ORDERED, That Columbia be authorized to file four complete copies of its tariffs in final form consistent with this opinion and order. Columbia shall file one copy in its TRF docket (or may make such filing electronically as directed in Case No. 06-900-AU-WVR) and one copy in this case docket. The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department. It is, further,

ORDERED, That the new rates charge shall be effective on a date not earlier than the date upon which four, complete, printed copies of the final tariff page are filed with the Commission. It is, further,

ORDERED, That the company shall notify its customers of the changes to the tariffs via bill message, bill insert, or separate mailing within 30 days of the effective date of the revised tariffs. A copy of this customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability, and Service Analysis Division at least 10 days prior to its distribution to customers. It is, further,

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,


ORDERED, That a copy of this opinion and order be served upon all parties of record.

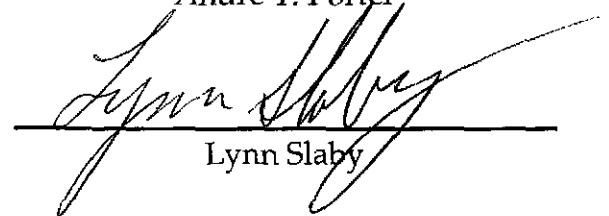
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


Andre T. Porter

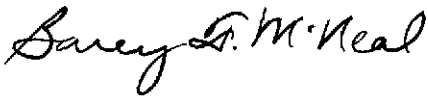

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Secretary