

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

|                                         |   |                         |
|-----------------------------------------|---|-------------------------|
| In the Matter of the Application of     | ) |                         |
| Columbia Gas of Ohio, Inc. for Approval | ) | Case No. 16-1309-GA-UNC |
| of Demand Side Management Program for   | ) |                         |
| its Residential and Commercial          | ) |                         |
| Customers.                              | ) |                         |
|                                         | ) |                         |
| In the Matter of the Application of     | ) | Case No. 16-1310-GA-AAM |
| Columbia Gas of Ohio, Inc. for Approval | ) |                         |
| to Change Accounting Methods.           | ) |                         |

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**APPLICATION FOR REHEARING BY THE ENVIRONMENTAL LAW & POLICY  
CENTER, THE NORTHWEST OHIO AGGREGATION COALITION, AND THE NOAC  
COMMUNITIES**

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**INTRODUCTION**

Pursuant to Ohio Revised Code (“R.C.”) 4903.10 and Ohio Admin. Code 4901-1-35, the Environmental Law & Policy Center, the Northwest Ohio Aggregation Coalition, and the NOAC Communities<sup>1</sup> (ELPC/NOAC) hereby file this Application for Rehearing of the December 21, 2016, Opinion and Order (“Order”) of the Public Utilities Commission of Ohio (“Commission”) in this case. The Order approved, with modifications, Columbia Gas’s Demand Side Management Program (“DSM Plan”) as modified by a Stipulation and Recommendation (“Stipulation”) signed by Columbia and seven other parties.

The purpose of this Application for Rehearing is to seek changes in several components of Columbia’s DSM Plan as modified by the Stipulation and the Commission’s Order.

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<sup>1</sup> Consisting of the city of Toledo, Lucas County Board of Commissioners, the city of Perrysburg, Lake Township Board of Trustees, the city of Maumee, the city of Oregon, the city of Northwood, the village of Ottawa Hills, the City of Sylvania, and the village of Holland.

Dated: January 20, 2017

Respectfully submitted,

/s/ Justin Vickers

Justin Vickers

Staff Attorney

Environmental Law & Policy Center

35 East Wacker Drive, Suite 1600

Chicago, IL 60601

P: 312.795.3736

F: 312.795.3730

[jvickers@elpc.org](mailto:jvickers@elpc.org)

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**MEMORANDUM IN SUPPORT OF APPLICATION FOR REHEARING BY  
THE ENVIRONMENTAL LAW & POLICY CENTER, THE NORTHWEST OHIO  
AGGREGATION COALITION, AND THE NOAC COMMUNITIES**

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**INTRODUCTION**

On December 21, 2017, the Public Utilities Commission of Ohio (“Commission”) entered an Opinion and Order approving Columbia Gas’s (“Columbia” or “Company”) application for approval to continue its Demand Side Management Program (“DSM Plan”) as modified by a Stipulation and Recommendation (“Stipulation”) signed by Columbia and seven other parties. Except for the Staff, these other parties have a direct financial interest in seeing the Stipulation approved. The Environmental Law and Policy Center (“ELPC”), the Northwest Ohio Aggregation Coalition (“NOAC”) and the NOAC Communities<sup>1</sup> (ELPC/NOAC) believe that serious deficiencies remain in the DSM Plan as approved and modified by the Commission. In sum, the DSM Plan provides too little energy savings at too great a cost to too few of Columbia’s customers.

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<sup>1</sup> Consisting of the city of Toledo, Lucas County Board of Commissioners, the city of Perrysburg, Lake Township Board of Trustees, the city of Maumee, the city of Oregon, the city of Northwood, the village of Ottawa Hills, the City of Sylvania, and the village of Holland.

ELPC/NOAC urges the Commission to reconsider four aspects of its Order. First, the Commission should expand the Simple Energy Solutions as outlined in ELPC/NOACC's initial and reply brief, which would include adding more than \$22 million to the Simple Energy Solutions program for use in Columbia's smart thermostat initiative. Second, the Commission should clarify that all competitive retail natural gas ("CRNG") and competitive retail electric service ("CRES") providers can participate in the smart thermostat program. Third, the Commission should order Columbia to change the DSM Plan from a six-year plan to a three-year plan. Fourth, the Commission should reject the Stipulation as a product of serious bargaining where the only parties in the case without a direct financial stake in the Stipulation – other than Staff – oppose the Stipulation. The Commission, therefore, should not approve the DSM Plan as modified by the Stipulation until it orders these changes.

## **ARGUMENT**

### **I. THE COMMISSION SHOULD REQUIRE COLUMBIA TO EXPAND ITS SMART THERMOSTAT PROGRAM BY SHIFTING FUNDS TO THE SIMPLE ENERGY SOLUTION PROGRAM**

In their initial brief, ELPC/NOAC requested that the Commission require Columbia to expand its smart thermostat initiative. Specifically, ELPC/NOAC argued that Columbia should shift funds from the HE HVAC Rebates and Home Performance Solutions programs to the Simple Energy Solutions program, which houses the smart thermostat initiative. Shifting funds would lead to both more savings per dollar spent and engagement with many more customers. The Commission denied ELPC/NOAC's proposal to expand the Simple Energy Solutions program because, "The record does not include sufficient information on the cost-effectiveness of the Simple Energy Solutions program if revised as opposing intervenors recommend." Opinion and Order at page 36. The testimony of witnesses Jewel and Frye, however, shows that

the proposed smart thermostat initiative is highly effective. We ask that the Commission reconsider this assertion.

The Commission's reasoning shifted the burden of demonstrating the effectiveness of the DSM Plan from Columbia and onto ELPC/NOAC and other intervenors. It is Columbia's burden to prove that it has presented its best plan. The job of intervenors is to identify deficiencies and propose alternatives based on the plan as presented. Given the significant testimony and analysis that ELPC/NOAC witness Jewell and NOAC witness Frye provided in this case, the Commission is seemingly setting a standard that no intervenor will ever be able to meet.

In this case, ELPC/NOAC presented evidence that expanding the Simple Energy Solutions program by using funds currently allocated to the HE HVAC Rebates and the Home Performance Solutions programs would yield significantly more energy savings per dollar and would reach more customers over the life of the plan. ELPC/NOAC Initial Brief at pages 6-8. This information was based on the cost-effectiveness information provided by the Company in Appendix B of its Application. Appendix B was the only significant source of cost-effectiveness information provided by Columbia in this entire case. ELPC/NOAC witness John Paul Jewell explained in detail why shifting funds from lower-performing programs such as the HE HVAC Rebates and Home Performance Solutions programs would greatly increase the effectiveness of the DSM Plan. Joint ELPC/NOAC Exhibit 1 at pages 11-12, 14-15. According to Mr. Jewell's calculations, shifting a total of \$22,556,565 from those programs to the Simple Energy Solutions program to be used on an enhanced smart thermostats initiative would increase annual savings by 661,143 Mcf, or nearly 10% of total savings. ELPC/NOAC Initial Brief at 7. This analysis is based on Columbia's own data and was explained in Mr. Jewell's testimony, examined by Columbia and others on Mr. Jewell's cross-examination, and detailed in ELPC/NOAC's initial

brief. *See* Joint ELPC/NOAC Exhibit 1 at pages 11-12, 14-15; Transcript Vol 2 at pages 199-202; ELPC/NOAC Initial Brief at pages 6-8.

The Commission should find that based on Columbia's own cost effectiveness numbers, expanding the Simple Energy Solutions program would greatly increase both savings and participation levels in the DSM Plan. The Commission should order Columbia to expand the Simple Energy Solutions program as detailed in ELPC/NOAC's Initial Brief.

## **II. ALL COMPETITIVE RETAIL NATURAL GAS AND COMPETITIVE RETAIL ELECTRIC SERVICE PROVIDERS CAN PARTICIPATE IN THE SMART THERMOSTAT PROGRAM**

As part of the Stipulation as approved by the Commission, Columbia agreed to engage in discussions with Retail Energy Supply Association ("RESA") and Interstate Gas Supply, Inc. ("IGS"), and Staff to streamline and/or enhance the rebate process." Opinion and Order at page 34. While ELPC/NOAC agrees that the process should be as streamlined and enhanced as possible, it is important that all CRNG and CRES providers be a part of the process, not just RESA and IGS. The Commission should clarify that Columbia must engage with all CRNG and CRES providers that want to participate in the smart thermostat rebate program, and make the rebate available to all competitors.

## **III. THE COMMISSION SHOULD ORDER COLUMBIA TO CHANGE THE DSM PLAN FROM A SIX-YEAR PLAN TO A THREE-YEAR PLAN**

The Commission's Opinion and Order approves Columbia's proposal to extend its DSM Plan from a five-year plan to a six-year plan. As explained in ELPC/NOAC's Initial Brief and in Mr. Jewell's testimony and cross examination, going from a five-year plan to the six-year plan is moving in the wrong direction. The Commission should instead order Columbia to reduce its plan to a three-year plan. The energy efficiency landscape simply changes too quickly for a six-year plan to remain effective across its lifetime. While funds can be shifted over the life of the

plan, that is a poor substitute for staying on the cutting edge of new, more efficient technology. Mr. Jewell provided an excellent example of the need for more regular plans when he noted on cross examination that in Illinois, “three years ago almost all of the electric [savings] was CFL; now it’s LED.” Transcript vol. 2 at page 216, lines 16-19; see also ELPC/NOAC Initial Brief at page 13. By locking in the general structure of the DSM Plan for six years, Columbia is virtually guaranteeing that its customers fund a suboptimal plan for a large portion of the DSM Plan’s lifetime.

#### **IV. THE COMMISSION SHOULD REJECT THE STIPULATION AS A PRODUCT OF SERIOUS BARGAINING**

The Commission held that the Stipulation was a product of serious bargaining and thereby satisfied the first of a three-prong test even though the Ohio Consumers’ Counsel (“OCC”) and ELPC/NOAC opposed the Stipulation. The Commission held that it “has repeatedly determined that we will not require any single party, including OCC, or class of customers to agree to a stipulation to meet the first criterion of the three-part test.” Opinion and Order at page 30, paragraph 59. The Commission further noted, “There is no evidence in the record that an entire class of customers was excluded from the settlement negotiations or that any particular entity who moved to intervene was prohibited from participating in the DSMSG meetings or denied the opportunity to discuss the terms to be included in the stipulation before it was filed with the Commission.” Opinion and Order at pages 30-31, paragraph 60. Finally, the Commission in the past has considered the Ohio Partners for Affordable Energy (“OPAE”), which signed the Stipulation, an advocate on the behalf of low- and moderate-income customers. Opinion and Order at page 31, paragraph 61.

ELPC/NOAC agree with the Commission that no single party can or should have a veto power over stipulations. However, ELPC/NOAC believe that the Commission has not properly

considered the level and quality of the opposition to this settlement, nor has it properly weighed the financial interests in favor of the Stipulation. Columbia is in a powerful position versus its customers, and so it is critically important that it prove it is providing the needed energy efficiency products that fully benefit its customers rather than that benefit those with a direct financial interest in the Stipulation. While OCC and NOAC/NOAC Communities are not the only parties that represent residential customers, it is important to recognize that other than Staff, OCC and ELPC/NOAC are the only parties representing residential customers without a financial interest in the outcome of the Stipulation. Most importantly, the Commission has not properly considered the extent to which the representatives that signed the Stipulation have a financial interest in the Stipulation that could affect their ability to represent certain customer classes. This fact must weigh heavily against any assertion that the Stipulation was meaningfully bargained for in a way that would adequately represent residential customers, and it must place significant pressure on the proponents of the Stipulation to prove that it is the best plan available. Columbia and the signatory parties have not met this burden for the reasons explained above and in the previous briefs by ELPC/NOAC. The Commission should require Columbia and the supporters of the Stipulation to modify the DSM Plan as detailed above to better serve the customers who fund these efficiency programs.

## **CONCLUSION**

Energy efficiency programs have the potential to provide Columbia Gas customers with significant benefits. However, the DSM Plan as approved by the Commission does not live up to that potential. ELPC/NOAC request that the Commission order Columbia to amend its DSM Plan consistent with detailed provisions outlined above and in previous briefs in this case.



Dated: January 20, 2017

Respectfully submitted,

/s/ Justin Vickers

Justin Vickers

Staff Attorney

Environmental Law & Policy Center

35 East Wacker Drive, Suite 1600

Chicago, IL 60601

P: 312.795.3736

F: 312.795.3730

[jvickers@elpc.org](mailto:jvickers@elpc.org)

## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Application for Rehearing submitted on behalf of the Environmental Law & Policy Center, the Northwest Ohio Aggregation Coalition, and the NOAC Communities was served by electronic mail, upon the following Parties of Record on January 20, 2017.

/s/ Justin Vickers  
Justin Vickers

### Email Service List:

Greta.see@puc.state.oh.us  
Thomas.lindgren@ohioattorneygeneral.gov  
Tonnetta.scott@ohioattorneygeneral.gov  
John.jones@ohioattorneygeneral.gov  
BLealie@NiSource.com  
josephclark@nisource.com  
sseiple@nisource.com  
cmacdonald@nisource.com  
gpiacentino@wp-lawgroup.com  
cendsley@ofbf.org  
lcurtis@ofbf.org  
amilam@ofbf.org  
callwein@keglerbrown.com  
trhayslaw@gmail.com  
cmooney@ohiopartners.org  
torahood@bricker.com  
rick.sites@ohiohospitals.org  
Jamie.Williams@occ.ohio.gov

Christopher.Healey@occ.ohio.gov  
brigner@occ.state.oh.us  
Debra.Hight@puc.state.oh.us  
Vesta.Miller@puc.state.oh.us  
joliker@igsenergy.com  
mjsettineri@vorys.com  
glpetrucci@vorys.com  
ibatikov@vorys.com  
bojko@carpenterlipps.com  
leslielovacik@toledo.oh.gov  
tischler-beth@maumee.org  
Kimberly.Keeton@ohioattorneygeneral.gov  
mfleisher@elpc.org  
mwarnock@bricker.com  
dborchers@bricker.com  
bingham@occ.state.oh.us  
kspencer@aando.com

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Summary: Application for Rehearing electronically filed by Mr. Justin M Vickers on behalf of Environmental Law & Policy Center and The Northwest Ohio Aggregation Coalition and The NOAC Communities