

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Application of Columbia :
Gas of Ohio, Inc. for :
Approval of an Alternative: Case No. 16-2422-GA-ALT
Form of Regulation to :
Extend and Increase Its :
Infrastructure Replacement:
Program. :

- - -

PROCEEDINGS

before Greta See, Hearing Examiner, at the Public
Utilities Commission of Ohio, 180 East Broad Street,
Room C, Columbus, Ohio, called at 10:00 a.m. on
Monday, October 2, 2017.

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and
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On behalf of Columbia Gas of Ohio.

Mike DeWine, Ohio Attorney General
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On behalf of the Staff of the Public
Utilities Commission of Ohio.

Office of Consumers' Counsel Bruce Weston
By Kevin F. Moore
Assistant Consumers' Counsel
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Columbus, Ohio 43215

On behalf of the Residential
Energy Consumers of Ohio.

McNees, Wallace & Nurick, LLC
By Frank P. Darr
21 East State Street, 17th Floor
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On behalf of Industrial Energy
Users-Ohio.

Colleen L. Mooney
Post Office Box 12451
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On behalf of Ohio Partners for
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Monday Morning Session,
October 2, 2017.

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THE EXAMINER: Scheduled for hearing
today at this time is Case No. 16-2422-GA-ALT
entitled In the Matter of the Application of Columbia
Gas of Ohio, Incorporated for Approval of Alternative
Form of Regulation to Extend and Increase Its
Infrastructure Replacement Program.

My name is Greta See. I'm the
Attorney-Examiner assigned to this case by the
Commission. At this time I'd like to take
appearances of the parties.

Let's start with Columbia.

MR. GALLON: Your Honor, Eric Gallon and
Devan Flahive, both of Porter, Wright, Morris and
Arthur as counsel for Columbia Gas of Ohio along with
Stephen Seiple, also counsel for Columbia Gas.

MR. BEELER: Thank you, your Honor. On
behalf of the Staff of the Public Utilities
Commission of Ohio, Ohio Attorney General Mike
DeWine, I'm Steven Beeler, Assistant Attorney
General, 30 East Broad Street, Columbus, Ohio, 43215.

MR. MOORE: Thank you, your Honor, on
behalf of the Residential Energy Consumers of

1 Columbia Gas of Ohio, Bruce Weston, Ohio Consumers'
2 Counsel, by Kevin Moore, 10 West Broad Street,
3 Columbus, Ohio, 43215.

4 MS. MOONEY: On behalf of Ohio Partners
5 for Affordable Energy, Colleen M. Mooney, Post Office
6 Box 12451, Columbus, Ohio, 43212.

7 MR. DARR: On behalf of the Industrial
8 Energy Users-Ohio, law firm of McNees, Wallace and
9 Nurick, I'm Frank Darr, 21 East State Street,
10 Columbus, Ohio.

11 THE EXAMINER: Okay. Mr. Gallon.

12 MR. GALLON: Your Honor, the parties have
13 conferred regarding a process to expedite the
14 admission of evidence in this case and the
15 commencement of briefing.

16 Pursuant to that stipulated process, the
17 parties have agreed that they will not challenge the
18 admission of specified documents into the evidentiary
19 records in this case including the Joint Stipulation
20 and Recommendation, the Application of Columbia Gas
21 of Ohio, the Prefiled Testimony of Columbia Gas of
22 Ohio by Don Ayers, Diana Beil, Melissa Thompson and
23 the Supplemental Testimony of Melissa Thompson in
24 support of the Joint Stipulation, the Joint
25 Stipulation and Recommendation, the Staff Report,

OCC's objections to the Staff Report and the testimony that OCC timely filed last week in objection to the Application and the Joint Stipulation.

We have also agreed to a proposed stipulated -- sorry, expedited process for briefing which we can discuss after the admission of evidence. But at this time, I would propose that the parties each take turns admitting into evidence their testimony.

THE EXAMINER: Let's mark and get in the testimony. Admitted.

MR. GALLON: Thank you, your Honor.

THE EXAMINER: As well as the Application and Stipulation.

MR. GALLON: Starting with Joint Exhibit 1 which is the Joint Stipulation and Recommendation. May I approach?

THE EXAMINER: Yes.

MR. GALLON: Columbia Exhibit 1 will be the Application of Columbia Gas of Ohio.

Exhibit 2 would be the prepared Direct Testimony of Donald Ayers, A-Y-E-R-S.

Columbia Exhibit 3 would be the prepared Direct Testimony of Diana Beil, B-E-I-L.

1 Columbia Exhibit 4 would be the prepared
2 Direct Testimony of Melissa L. Thompson.

3 And Columbia Exhibit 5 would be the
4 prepared Supplemental Testimony of Melissa L.
5 Thompson. Those are Columbia's exhibits, your Honor.

6 THE EXAMINER: Mr. Moore?

7 MR. MOORE: Yes, thank you, your Honor.
8 OCC would move the admission of OCC Exhibit 1, the
9 Direct Testimony of Daniel J. Duann. May I approach,
10 your Honor?

11 THE EXAMINER: Yes.

12 MR. MOORE: OCC Exhibit No. 2 would be
13 the Direct Testimony of Daniel E. O'Neill.

14 There was one change that OCC would like
15 to make to OCC Exhibit 3, the Direct Testimony of
16 Mohammad Harunuzzaman. On Page 18 on line 9, line 9
17 states, "A given year was more than one in
18 11.9 million in part." That line, the words "more
19 than" should be deleted and then should be inserted
20 after the word "in." So it should read "A given year
21 was one in more than 11.9 million." With that
22 change, we move for the admission of OCC No. 3.

23 And finally is OCC Exhibit No. 4,
24 Objections to Columbia's Application and the Staff
25 Report. Thank you, your Honor.

1 THE EXAMINER: Mr. Beeler.

2 MR. BEELEER: Thank you, your Honor. May
3 I approach?

4 THE EXAMINER: Yes.

5 MR. BEELEER: We would have two documents
6 here today. The Staff Exhibit 1 was just the letter
7 of completeness that was filed on March 24th, 2017.
8 I'd like to have that marked as Staff Exhibit 1.

9 And then marked as Staff Exhibit 2 would
10 be the Staff Report filed by the Staff on July 10th,
11 2017 marked as Staff Exhibit 2. That is all, your
12 Honor.

13 THE EXAMINER: Okay. And Mr. Gallon has
14 indicated that the parties have an agreement for the
15 admission without cross-examination; is that correct?

16 MR. BEELEER: Yes, your Honor.

17 THE EXAMINER: Mr. Moore?

18 MR. MOORE: Yes, your Honor.

19 THE EXAMINER: Miss Mooney?

20 MS. MOONEY: Yes, your Honor.

21 THE EXAMINER: Mr. Darr?

22 MR. DARR: No objection, your Honor.

23 THE EXAMINER: Then Columbia Exhibits 1
24 through 5 shall be admitted into the record. OCC
25 Exhibits 1 through 4 shall be admitted into the

1 record. Staff Exhibits 1 and 2 shall be admitted
2 into the record as well as Joint Exhibit 1, the Joint
3 Stipulation and Recommendation.

4 (EXHIBITS ADMITTED INTO EVIDENCE.)

5 THE EXAMINER: It's my understanding the
6 parties have also come to a briefing schedule.

7 MR. GALLON: Yes, your Honor, that's
8 correct. We've conferred and the parties have agreed
9 to a briefing schedule under which the initial post
10 hearing brief would be due three weeks from the date
11 of hearing which is October 23rd, and then a reply
12 brief would be due two weeks and one day after the
13 filing of the initial brief which I believe is
14 November 7th.

15 THE EXAMINER: Do you have a calendar?
16 Why did I think it was the 8th? Let's go off the
17 record for a moment.

18 (Off the record.)

19 THE EXAMINER: Let's goes back on.
20 November 7th?

21 MR. GALLON: Yes, your Honor.

22 THE EXAMINER: And all the parties have
23 agreed?

24 MR. MOORE: Yes, your Honor.

25 MR. BEELER: Yes, your Honor.

1 MS. MOONEY: Yes, your Honor.

2 MR. DARR: Yes, your Honor.

3 THE EXAMINER: Okay. The initial briefs
4 shall be due October 23rd, reply briefs due
5 November 7th.

6 Is there anything more we need to address
7 today?

8 MR. GALLON: Yes, your Honor, one other
9 item.

10 THE EXAMINER: What is that, Mr. Gallon?

11 MR. GALLON: I've spoken with the parties
12 this morning regarding the question of administrative
13 notice which was an issue that was raised in the DSM
14 case last year among some of these parties.

15 The briefing in that case was followed by
16 a motion to strike. In an effort to avoid some of
17 the motions from that proceeding, I've spoken to the
18 parties regarding administrative notice of certain
19 documents that are now currently in the evidentiary
20 record.

21 OCC and the other parties have agreed to
22 take administrative notice of one of those types of
23 documents. There are a few others that I'd like to
24 raise this morning as a motion to take administrative
25 notice.

1 The first category, your Honor, that the
2 parties I believe are all in agreement on is current
3 and past filed tariffs. In past cases, there's been
4 some question as to whether it was appropriate for
5 the Commission to take notice of tariffs without
6 parties first seeking approval or permission to cite
7 to such documents.

8 In the DSM case from last year, the
9 Commission ruled that it could take a notice of such
10 tariffs, but to be on the safe side, I've spoken with
11 the other parties, and I think we're all in agreement
12 that we will not challenge citations to current or
13 past filed tariffs if raised in the post hearing
14 briefing. So we would ask the Commission to take
15 administrative notice if it feels it's necessary to
16 do so.

17 THE EXAMINER: If the parties have agreed
18 to it, it's fine.

19 MR. GALLON: Thank you, your Honor.

20 The second category of documents are
21 documents that are cited either in the Application or
22 the prefiled testimony of the parties in this case.
23 There are certain documents cited within those
24 documents such as citations to prior applications or
25 to testimony filed in the earlier IRP cases, the

1 2007, 2008 or the 2011 case.

2 In order for the parties to address each
3 others' arguments and each others' testimony, we
4 believe it would be appropriate for them to be able
5 to discuss the documents that are cited in each
6 others' applications and testimony.

7 And currently if those documents are not
8 Commission opinions or entries, it raises the
9 possibility that one of our parties might move to
10 strike those set of documents. So in the interest of
11 allowing for a discussion, a full argument of the
12 parties' positions, we would move that any documents
13 cited by a party, be it Columbia or OCC, in the
14 Application or the prefiled testimony that's been
15 admitted today, the Commission would take
16 administrative notice of those documents.

17 THE EXAMINER: And we're just talking
18 about prior Columbia IRP applications?

19 MR. GALLON: For instance, your Honor,
20 OCC Witness Duann cites to prefiled testimony of a
21 Staff witness in Case No. 0872. He cites to one of
22 the schedules in the Application for the annual rider
23 proceeding. He cites to the Staff Report in a Duke
24 Energy case. And he cites to another schedule in the
25 2016 rider case, as well as a filing in a Maryland

Public Service Commission proceeding. As another example in Columbia's Application, we cite to one of Columbia's witnesses in the 11-5515 case.

So we would propose that we be able to discuss the documents that OCC's witnesses cited in their testimony, and that OCC, for example, be able to discuss the documents that we cite in our testimony and in our application that are currently outside the evidentiary record. So we would ask the Commission to take administrative notice of those documents.

MR. MOORE: Your Honor, if I could be heard in this matter.

THE EXAMINER: Sure.

MR. MOORE: OCC would object to Columbia's motion to take administrative notice. Arguments that are in their Application or testimony that are supported with a citation to prior testimony are obviously allowed to be cited, but it shouldn't be carte blanche for them to now discuss in their brief anything that is in those pieces of testimony as evidence in this proceeding to support their Application here.

Further, these aren't facts that are usually accepted as administrative notice. They're

1 not narrow and specific. They're not verifiable.
2 They're not readily acceptable. In fact, they're
3 very controversial. They're not purely factual.

4 They're basically judgment, policy and
5 preference on behalf of Columbia. They haven't been
6 allowed to be discussed and argued in a hearing. We
7 think it would be very prejudicial and unreasonable
8 to now allow with this little argument to allow all
9 testimony that they've cited to into the record.

10 THE EXAMINER: Let me be clear. So the
11 parties had only agreed to take administrative notice
12 of current and past tariffs; is that correct?

13 MR. GALLON: That's correct, your Honor.

14 THE EXAMINER: Okay. But you had not
15 discussed the other citations that Mr. Gallon just
16 raised with past Alternative Regulation Cases,
17 Columbia's, as well as Duke's I believe you referred
18 to?

19 MR. GALLON: I think there was one
20 citation to a Duke case in there and their testimony.
21 Our primary interest would be the filings in the past
22 IRP cases, so the 2007, 2008 and 2011 IRP cases and
23 then the annual filings.

24 MR. MOORE: Right, your Honor. I think
25 the issue here is that Columbia may have included

1 evidence to support certain facts in their past
2 cases, but that evidence was not supported or was not
3 included in this proceeding. One of OCC's
4 contentions in this proceeding is that there is a --
5 this Application is largely devoid of support or
6 evidence.

7 For Columbia now to state in their briefs
8 they can cite back to all past IRP applications and
9 all past IRP testimony in support of this current one
10 we think is unjust and unreasonable. They should
11 have included that information in their current
12 Application.

13 THE EXAMINER: Okay. Are those the only
14 two issues of which you wanted the Bench to take
15 administrative notice?

16 MR. GALLON: Yes, your Honor. The
17 narrower category of documents cited in our
18 Application, our prefiled testimony or their prefiled
19 testimony and then the broader group of documents
20 filed in the prior IRP cases. So there is a fair
21 amount of overlap of these two categories.

22 THE EXAMINER: I would like some
23 additional time to think about the issues, so
24 Mr. Gallon, I'm going to direct that you file a
25 motion, a written motion by the close of business

1 tomorrow.

2 MR. GALLON: Thank you, your Honor.

3 THE EXAMINER: Any Memorandums Contra are
4 due by the end of the week by close of business on
5 Friday. Make seven pages your limit.

6 MR. GALLON: Yes, your Honor.

7 THE EXAMINER: Is there anything further?

8 MR. GALLON: Not for Columbia, your
9 Honor, thank you.

10 THE EXAMINER: Anything more by any other
11 party?

12 MR. MOORE: No, your Honor.

13 MR. BEELEER: No.

14 THE EXAMINER: If that's the case, this
15 hearing is adjourned. Thank you very much.

16 (The hearing was concluded at 10:25 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Monday, October 2,
2017, and carefully compared with my original
stenographic notes.

Cynthia L. Cunningham
Cynthia L. Cunningham

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in

Case No(s). 16-2422-GA-ALT

Summary: Transcript In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of al Alternative Form of Regulation to Extend and Increase Its Infrastructure Replacement Program, hearing held on October 2, 2017. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Cunningham, Cindy