BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation	: : :	Case No. 16-2422-GA-ALT

POST-HEARING BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

Mike DeWine
Ohio Attorney General

William L. Wright
Section Chief

Steven L. Beeler
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 16th Fl.
Columbus, OH 43215-3793
614.466.4397 (telephone)
614.644.8764 (fax)
steven.beeler@ohioattorneygeneral.gov

October 23, 2017

TABLE OF CONTENTS

Page

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation	: : :	Case No. 16-2422-GA-ALT

POST-HEARING BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

INTRODUCTION

The Stipulation presented in this case enhances the benefits to rate payers identified in Columbia Gas of Ohio, Inc.'s (Columbia or the Company) Application and addresses the concerns raised by the Staff of the Public Utilities Commission of Ohio (Staff) in this proceeding. The Infrastructure Replacement Program (IRP) was originally authorized by the Public Utilities Commission of Ohio (Commission) in Case No. 08-72-EL-AIR, *et al.*, and continued in Case No. 11-5515-GA-ALT (2011 IRP Case). In this application, the Company proposes to keep the scope, structure, and timeframes of the IRP the same as the IRP the Commission approved in Case No. 11-5515-GA-ALT. The only change that the Company recommended was an increase to the residential rate caps that were previously adopted. Columbia proposed that the $1.00 cap on annual increases to Rider IRP for the Small General Service (SGS) class of customers (includes residential and smaller commercial customers) be increased to $1.30.

The Staff reviewed the application, conducted an extensive and thorough review of Columbia's administration of the IRP Program, and filed a Staff Report on July 10, 2017.[1] Staff recommended approving Columbia's application with the following modifications:

(1) Staff opposed the proposed operation and maintenance (O&M) savings methodology and recommended that the Commission direct Columbia to work with Staff and interested parties to ascertain the reasons why Columbia is not achieving O&M savings results comparable to other utilities and to recommend a new methodology prior to January 1, 2018;

(2) Staff recommended that the Commission maintain the current $1.00 per SGS customer per-month cap for the first three years of the renewal period (2108-2020) and increase it to $1.10 per SGS per customer per month for 2021 and 2022 and the following maximum SGS customer rates for the IRP renewal period:

	2018	2019	2020	2021	2022
Maximum SGS Customer IRP Rider Rate per Month	$11.20	$12.20	$13.20	$14.30	$15.40

(3) Staff recommended that the Commission give no weight to Columbia's suggestion that, since customers are currently paying approximately 30% less for natural gas service (on a total bill basis) than they were at the end of

[1] *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation*, Case No. 16-2422-GA-ALT.

its last base rate case (in 2008), now is the optimal time to invest in infrastructure.

The Stipulation proposes a reasonable compromise:

(1) Columbia may continue its Rider IRP mechanism to reflect IRP investments made through December 31, 2022. However, should Columbia file a base rate case with new rates effective before December 31, 2022, the Parties recognize that as part of any such rate case interested parties may challenge any aspect of the IRP and the Commission may, as a result of such challenge or on its own initiative, revise Columbia's IRP prior to December 31, 2022; and

(2) annual increases of the monthly rate cap for 2018-2022 period equal to $1.15, $1.15, $1.20, $1.25, and $1.25, respectively.

The Stipulation represents compromises by Columbia, the Ohio Partners for Affordable Energy (OPAE) and the Staff and provides for a balanced outcome for Columbia customers. The signatory parties recommend that the Commission approve the Stipulation.

DISCUSSION

I. The Stipulation meets the Three-Part Test for reasonableness.

Rule 4901-1-30, O.A.C, authorizes parties to Commission proceedings to enter into stipulations. Although not binding upon the Commission, the terms of such agreements are to be accorded substantial weight.[2] The ultimate issue for the Commission's consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings.[3] 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 cases.[4] When the Commission reviews a contested stipulation, as is the case here, the Court has also been clear that the requirement of evidentiary support remains operative. While the Commission "may place substantial weight on the terms of a stipulation," it "must determine, from the evidence, what is just and reasonable."[5] The

---

2 *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, at 125 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155 (1978).

3 See, e.g., *Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (Order on Remand) (Apr. 14, 1994); *Ohio Edison Co.*, Case No. 92-1463-GA-AIR, *et al*. (Opinion and Order) (Aug. 26, 1993); *Ohio Edison Co.*, Case No. 89-1001-EL-AIR (Order on Remand) (Aug. 19, 1993); *The Cleveland Electric Illumination Co.*, Case No. 88-170-EL-AIR (Opinion and Order) (Jan. 31, 1989); and *Restatement of Accounts and Records (Zimmer Plant)*; Case No, 84-1187-EL-UNC (Opinion and Order) (Nov. 26, 1985).

4 *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559 (1994), citing, *Consumers' Counsel, supra*, at 126.

5 *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 126, 592 N.E.2d 1370 (1992).

agreement of some parties is no substitute for the procedural protections reinforced by the evidentiary support requirement.[6]

Columbia, OPAE, and the Staff respectfully submit that the Stipulation here satisfies the reasonableness criteria, and that the evidence of record supports and justifies a finding that its terms are just and reasonable.

A. Serious Bargaining

The Stipulation is the product of an open process in which all parties were represented by able counsel and technical experts.[7] Columbia, the Staff and the other parties engaged in negotiations to produce the Stipulation filed on August 18, 2017. During these negotiations, Columbia and other parties presented various settlement positions and proposals that were considered and discussed.[8] The Stipulation represents a comprehensive compromise of the issues in this case. Each party to the Stipulation regularly participates in Commission proceedings and other regulatory matters, and each party was represented by experienced and competent counsel. A broad range of interests is represented by the parties including Columbia, Staff, and OPAE. For example, OPAE represents the interests of low-income customers, including low-income residential

6 *In re Application of Columbus S. Power Co*., 129 Ohio St.3d 46 (2011).

7 Columbia Ex. 5 (Thompson Supplemental Testimony) at 3-4.

8 *Id*.

customers, as well as its member community action agencies. Staff represents the interests of all customers and stakeholders in Ohio.[9]

The Stipulation serves as a reasonable resolution of issues and the Signatory Parties recommend that the Stipulation be adopted as a fair, balanced and reasonable resolution of all of the issues in this proceeding. The Signatory Parties had differing positions concerning the maximum Rider IRP SGS Class rate, as well as the minimum threshold for O&M savings, both of which this Stipulation resolves.[10] As a result of these negotiations, the Stipulation provides that Columbia should be authorized to continue the IRP for an additional five years, with the modifications contained therein.

In sum, the Stipulation represents a comprehensive, reasonable resolution of the issues in this case by informed parties with diverse interests.

B. Public Interest

The Stipulation, as a package, benefits ratepayers and the public interest. The Stipulation will promote safety and reliability, enhance customer service, and reduce the financial impact on customers.[11] The Stipulation continues Columbia's Accelerated Mains Replacement Program (AMRP) including the Hazardous Customer Service Line (HCSL) Program.[12] Under the AMRP, Columbia has been accelerating the replacement

---

9 Columbia Ex. 5 (Thompson Supplemental Testimony) at 4.

10 *Id*.

11 *Id*.

12 *Id*.

of bare steel, cast iron, wrought iron, and unprotected coated steel, which have a greater probability to leak due to their material type, protection, age, and other characteristics.[13] The Stipulation allows Columbia to continue to implement its systematic replacement strategy, which targets the identification, selection, and replacement of this pipe with high relative risk.[14] By extending the current AMRP, the Stipulation also enables Columbia to coordinate the replacement of this pipe in advance of state or municipal construction projects, which eliminates concerns over the intrusive maintenance efforts that Columbia would otherwise have to take in order to repair leaks and maintain an aging natural gas system.[15] Finally, the Stipulation allows Columbia to continue to maintain responsibility for all maintenance, repair, and replacement of customer-owned service lines that have been determined by Columbia to present an existing or probable hazard to persons or property based on severity or location.[16]

The Stipulation will also enhance customer service. With the accelerated replacement of aging infrastructure under the AMRP, Columbia can reduce customer outages due to leaks on bare steel, cast iron, wrought iron, unprotected coated steel, ineffectively coated steel, and first generation plastic main lines.[17] Moreover, with Columbia replacing hazardous customer service lines under the HSCL Program,

---

13 Columbia Ex. 5 (Thompson Supplemental Testimony) at 4-5.

14 *Id.* at 5.

15 *Id*.

16 *Id*.

17 *Id*.

Columbia is able to quickly and efficiently repair customer service lines and relight customer appliances.[18] Finally, with the uprating of main lines from low to medium pressure, Columbia is able to further increase the reliability of its system due to less ground water being able to infiltrate its facilities.[19]

The Stipulation provides for a reduction from Columbia's proposed maximum SGS Class rate.[20] Over the five-year term, pursuant to the Stipulation, Columbia's SGS Class customers will see a per-month incremental increase in their maximum rider rate between $1.15 and $1.25 per year, in lieu of the proposed $1.30 rate change per year proposed in Columbia's Application.[21]

Staff asks that the Commission exercise its discretion to find that the Stipulation, as a whole, benefits the public interest. The opposing intervenors were part of the settlement discussions and now have an opportunity to challenge them in this case through the hearing process. Again, the Stipulation is to be evaluated as a package. The package, in this case, provides significant benefits to customers as mentioned above.

---

18 Columbia Ex. 5 (Thompson Supplemental Testimony) at 5.

19 *Id.*

20 *Id.*

21 *Id.*

C. The Stipulation does not violate any important regulatory principle or practice, rather it promotes public policy.

The final prong of the Commission's three-part test is passed, as the Stipulation does not violate any important regulatory principle or practice. The terms of the Stipulation represent a compromise of the Signatory Parties. None of the individual provisions of the Stipulation is inconsistent with or violates any important Commission principle or practice. The Stipulation is consistent with the Commission orders in past Columbia applications requesting the extension of the IRP, and is also consistent with other utilities' infrastructure replacement program extension orders, including those for The East Ohio Gas Company d/b/a Dominion East Ohio.

II. OCC Objections

The Ohio Consumers' Counsel (OCC) has submitted testimony challenging aspects of the Stipulation. As will be shown, these objections have no merit. They will be considered in the following sections, divided by issue.

A. The Stipulated IRP cost increases and rate cap increases are reasonable.

In its application, Columbia proposed that the caps be raised by $1.30 per year, based on a rate of inflation of 6.47% per year, which has been the historical rate of increase in its cost per mile of priority pipe in the period 2013-2016. The Staff Report proposed a freeze for three years, and a 10% increase in the last two years ($1.10 per year). The Stipulation proposes a reasonable compromise – annual increases of the monthly rate cap for 2018-2022 period equal to $1.15, $1.15, $1.20, $1.25, and $1.25, respectively.

Columbia cites several reasons why IRP Program costs have continued to rise since inception of the Program in 2008.[22] Columbia points to success of the IRP in meeting its goals in support of reauthorizing the Program under the same processes, terms, conditions, and agreements that were adopted in the 2011 IRP Case. The Company has experienced an average annual increase in the AMRP component of the IRP of 6.47%.[23] When this annual percentage increase is used to estimate the capital necessary to install an additional 820 miles of priority pipe over the five-year IRP renewal period (164 miles per year), then the requested cap increase is proven necessary.[24] Columbia has experienced and expects to continue to experience significant annual cost increases for replacing mains and service lines under the AMRP.[25] These historical costs increases will require additional capital investments and increases to the annual IRP Rider cap.[26]

Company witness Ayers points to annual increases in per mile costs for pipeline replacement restoration, directional boring, and video locating of sewer lines as examples of increasing cost trends that will require increased capital investments and future

---

22 Staff Ex. 2 (Staff Report at 6).

23 *Id*.

24 *Id*.

25 *Id*.

26 *Id*.

increases the Rider IRP rate cap.[27] His opinion is that pipeline replacement costs are likely to continue to trend upward. In addition, he notes that Columbia's current contracts with its blanket construction contractors will expire at the end of 2020 and must be renegotiated for new prices to take effect in 2021.[28] He suggests that both the increasing trend in pipeline replacement costs and new blanket construction contracts with contractors will continue to drive IRP costs upward during the 2018-2022 renewal period.[29] Company witness Beil also found, using Columbia's historical data, an average annual increase in AMRP costs of 15.57% from the beginning of the Program through 2016 and 6.47% for the 2013 through 2016 period.[30]

For the above reasons, the stipulated IRP cost increases and rate cap increases are reasonable.

B. The agreed-upon O&M savings for customers are reasonable

Despite OCC's arguments to the contrary, the minimum O&M savings recommended by the Stipulation are a reasonable compromise. Columbia recommended keeping the minimum O&M savings at the $1.25 million per year minimum savings amount that was approved in the 2011 IRP Case.[31] The Company has replaced many

---

27 Columbia Ex. 2 (Ayers Direct Testimony) at 5-8.

28 *Id*. at 4.

29 *Id.* at 5-8.

30 Columbia Ex. 3 (Beil Direct Testimony) at 6.

31 *Id.* at 4.

miles of bare steel and cast iron (BS/CI) mains and service lines in its system and it still has many miles of BS/CI pipe in its system.[32] In the Staff Report, Staff advocated a formal review to ascertain why Columbia's reported actual O&M savings amounts were below the minimum savings levels and lagged behind the savings reported by other companies.[33] In lieu of a formal review, the signatory parties agreed to increase in the minimum O&M savings from $1.25 million per year to $2.0 million in the first two years of the five-year renewal period, $2.25 million per year in the third year, and $2.5 million per year in the final two years. Furthermore, O&M savings that will be passed back to customers is the greater of the agreed-upon minimum levels or actual O&M savings realized. This is a reasonable compromise position that benefits customers.

C. The non-priority pipeline replacement is reasonable.

The stipulation approved by the Commission in the 2011 IRP Case (the last time Columbia's IRP was approved) recognized that, in the course of replacing priority pipe, Columbia would encounter interspersed segments of plastic lines and that in many instances it would be more economical to simply continue installing new plastic pipe as opposed to stopping to mate the new pipe to the interspersed plastic segments.[34] Similarly, the order in the 2011 IRP Case recognized that local governments would

---

32 Staff Ex. 2 (Staff Report) at 8.

33 *Id*. at 8-9.

34 *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation*, Case No. 11-5515-GA-ALT (2011 IRP Case) (Opinion and Order at 5) (Nov. 28, 2012).

request Columbia to relocate facilities involving both priority and non-priority pipe in order to accommodate governmental projects such as road-widening and that Columbia would encounter first-generation plastic pipe that, in certain circumstances, is more prone to cracking than later generations of plastic pipe.[35] The 2011 IRP Case allows Columbia to address such situations, under the IRP, while imposing reasonable conditions and limitations to ensure that the primary focus of the IRP is replacing priority pipe.

Columbia's Application and the Stipulation in this case propose to keep the same conditions and limitations. Dominion East Ohio's (Dominion) and Vectren Energy Delivery of Ohio, Inc.'s (Vectren) similar accelerated infrastructure replacement programs include similar authority to replace non-priority pipe under similar conditions and limitations. Similarly, Duke Energy Ohio's (Duke) AMRP program included had similar provisions with similar limitations prior to completion in 2015.

D. The Hazardous Customer Service Line Replacement (HCSL) Program is reasonable.

In 2007, the Commission approved Columbia's responsibility for replacing prone-to-failure risers and maintaining, repairing, and replacing hazardous customer service lines.[36] Furthermore, under Columbia's approved tariff, Columbia also has the responsibility to maintain, repair, and replace customer-owned service lines deemed to

---

35 *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation*, Case No. 11-5515-GA-ALT (2011 IRP Case) (Opinion and Order at 7) (Nov. 28, 2012).

36 *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 (2007 IRP Case) (Opinion and Order) (Apr. 9, 2008).

present an existing or probable hazard to persons or property or require a scheduled repair or replacement based upon severity or location.[37] OCC believes that the HCSL should not be reauthorized in this case. OCC's rationale appears tied to the Commission's reasons for denying Duke's application for authority to systematically replace 58,000 non-leaking customer service lines over a 10-year period (termed Accelerated Service Line Replacement Program or ASLRP) in Case No. 14-1622-GA-ALT. However, Columbia's HCSL program is distinguishable from Duke's application. Duke's ASLRP called for the systematic and accelerated replacement of non-leaking metallic customer service lines[38], while Columbia replaces leaking and non-leaking metallic service lines tied to main lines that its replaces under its AMRP. Columbia replaces customer service lines under its HCSL program when they leak. This is the same process that the Commission approved and that is currently in place for Dominion and Vectren and was in place for Duke prior to completing its AMRP in 2015.

No evidence exists that Columbia is systematically replacing non-leaking customer service lines on an accelerated basis in this case. To the extent that OCC questions Columbia's records that customer service lines replaced under the HCSL program were leaking or the costs for such replacements, those topics can be reviewed and challenged during the IRP annual review.

---

37 Columbia Ex. 4. (Thompson Direct Testimony) at 3.

38 *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of an Alternate Rate Plan Pursuant to R.C. 4929.05 for an Accelerated Service Line Replacement Program, Case No. 14-1622-GA-ALT* (Opinion and Order) (May 17, 2017).

E. Cost studies are not needed.

Since its inception in Case No. 08-072-GA-AIR, *et al.* and through its re-authorization in the 2011 IRP Case, Columbia's IRP has included a process whereby Columbia files an application each year for authority to recover the prior year IRP investments.

This process provides for a Staff investigation, intervenor participation (including interrogatories), and Staff and intervenor comments and recommendations to the Commission. All aspects of Columbia's investments, including costs, can be investigated during these annual reviews. Intervenors such as OCC are not precluded from employing outside experts to conduct such reviews. Columbia's Application and the Stipulation recommend keeping the annual review process unchanged. Any additional studies would be unnecessarily duplicative.

F. The proper place to set Columbia's rate of return (ROR) is in a base rate case.

The proper place to set a utility's ROR is during a base rate case, when all factors that influence what the proper ROR should be can be reviewed simultaneously. In Staff's view, it would be unwise and unwieldy to have a utility have a different (and multiple) RORs for each of its individual programs. The Commission appears to have endorsed this view for gas companies' accelerated infrastructure replacement programs when it reauthorized Columbia's IRP in the 2011 IRP Case; Dominion's Pipeline Infrastructure Replacement (PIR) program in Case No. 11-2401-GA-ALT and again in Case No. 15-362-GA-ALT; and Vectren's Distribution Replacement Rider (DRR) program in Case

No. 13-1571-GA-ALT, each time keeping each company's ROR that same as was approved in its most recent base rate case.

CONCLUSION

The Stipulation meets all prongs of the three-part test for determining the reasonableness of the Stipulation and OCC's arguments are unpersuasive. Therefore, the Commission should adopt the Stipulation as its order in this case.

Mike DeWine
Ohio Attorney General

William L. Wright
Section Chief

/s/ *Steven L. Beeler*
Steven L. Beeler
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 16th Fl.
Columbus, OH 43215-3793
614.466.4397 (telephone)
614.644.8764 (fax)
steven.beeler@ohioattorneygeneral.gov

PROOF OF SERVICE

I hereby certify that a true copy of the foregoing Post-Hearing Brief submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by regular U.S. mail, postage prepaid, hand-delivered, and/or electronic mail upon the following parties of record, this 23rd day of October, 2017.

/s/ *Steven L. Beeler*
Steven L. Beeler
Assistant Attorney General

Parties of Record:

sseiple@nisource.com
josephclark@nisource.com
egallon@porterwright.com
kevin.moore@occ.ohio.gov
cmooney@ohiopartners.org
mpritchard@mwncmh.com
fdarr@mwncmh.com

Attorney Examiner:
greta.see@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/23/2017 1:31:21 PM

in

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

Summary: Brief Post-Hearing Brief submitted by Assistant Attorney General Steven Beeler on behalf of the Staff of the Public Utilities Commission of Ohio. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio