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 TO EXTEND AND INCREASE ITS INFRASTRUCTURE REPLACEMENT PROGRAM.	CASE NO. 16-2422-GA-ALT

OPINION AND ORDER

Entered in the Journal on January 31, 2018

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I. SUMMARY

{¶ 1} The Commission approves the alternative rate plan application of Columbia Gas of Ohio, Inc., pursuant to the Joint Stipulation and Recommendation, as modified by this Opinion and Order.

II. APPLICABLE LAW

{¶ 2} Columbia Gas of Ohio, Inc. (Columbia or Company) is a natural gas company, as defined in R.C. 4905.03, and a public utility, as defined in R.C. 4905.02, and, as such, Columbia is subject to the jurisdiction of the Commission.

{¶ 3} R.C. 4929.05(A), which governs requests for approval of an alternative rate plan filed by a natural gas company, provides that the Commission shall authorize the applicant to implement the alternative rate plan if the natural gas company demonstrates and the Commission finds that all of the following conditions are met:

(a) The natural gas company is in compliance with R.C. 4905.35 and is in substantial compliance with the policy of this state in R.C. 4929.02.

(b) The natural gas company is expected to continue to be in substantial compliance with the policy of this state as specified in R.C. 4929.02 after implementation of the alternative rate plan.

(c) The alternative rate plan is just and reasonable.

{¶ 4} R.C. 4905.35 prohibits discrimination on the part of a public utility. Additionally, R.C. 4929.02 sets forth the policy of the state as to natural gas services and goods. Pursuant to R.C. 4929.05(B), the burden of proof is with the public utility to demonstrate compliance with the applicable statutes.

{¶ 5} R.C. 4929.051(B) provides that an alternative rate plan filed by a natural gas company seeking authorization to continue a previously approved alternative rate plan shall be considered an application not for an increase in rates.

III. Procedural Background

{¶ 6} On December 27, 2016, Columbia filed a notice of intent to file an application for approval of the continuation of an alternative rate plan under R.C. 4929.05.

{¶ 7} On February 27, 2017, Columbia filed its alternative rate plan application, along with supporting exhibits and testimony, pursuant to R.C. 4929.05, 4929.051(B), 4929.11, and 4909.18. In the application, Columbia seeks approval to continue its Infrastructure Replacement Program (IRP) and the associated cost recovery mechanism, Rider IRP, for another five years, January 1, 2018, through December 31, 2022. Columbia's IRP was most recently approved for a five-year term to expire on December 31, 2017, in Case No. 11-5515-GA-ALT. *In re Columbia Gas of Ohio, Inc.*, Case No. 11-5515-GA-ALT (*2011 IRP Case*), Opinion and Order (Nov. 28, 2012).

{¶ 8} On March 24, 2017, Staff filed a letter stating that Columbia's application is in compliance with Ohio Adm.Code 4901:1-19-06.

{¶ 9} By Entry issued on April 6, 2017, as amended on August 8, 2017 and August 11, 2017, the procedural schedule was established, including a due date for the filing of motions to intervene, the Staff Report, and objections to the application or the Staff Report.

{¶ 10} By Entry issued on April 21, 2017, Industrial Energy Users-Ohio (IEU), Ohio Consumers' Counsel (OCC), and Ohio Partners for Affordable Energy (OPAE) were granted intervention.

{¶ 11} The Staff Report was filed on July 10, 2017. OCC and OPAE filed objections to the Staff Report or the application on August 14, 2017, and August 15, 2017, respectively.

{¶ 12} On August 18, 2017, a Joint Stipulation and Recommendation (Stipulation) was filed by Columbia, Staff, and OPAE. By Entry issued September 7, 2017, a procedural schedule was established, including the filing of testimony in support of and in opposition to the Stipulation and a hearing to commence on October 11, 2017, to assist the Commission in its consideration of the Stipulation.

{¶ 13} Pursuant to the procedural schedule, Columbia filed testimony in support of the Stipulation on September 8, 2017.

{¶ 14} On September 20, 2017, a joint motion was filed by Columbia, Staff, IEU, OCC, and OPAE to revise the procedural schedule. In the motion, the parties requested that the Commission reschedule the hearing to October 2, 2017, and, to expedite the Commission's consideration of Columbia's application, the parties agreed to admit specific documents and all pre-filed testimony into the evidentiary record and to waive the cross-examination of witnesses. Further, the parties agreed to a briefing schedule with initial briefs to be filed by October 23, 2017, and reply briefs to be filed by November 7, 2017. By Entry issued September 22, 2017, the parties' joint motion was granted.

{¶ 15} On September 28, 2017, OCC filed testimony in opposition to the Stipulation.

{¶ 16} The hearing was held on October 2, 2017. At the hearing, as agreed by the parties, admitted into evidence were Columbia's alternative rate plan application (Columbia Ex. 1); the direct testimony of Columbia's witnesses Donald Ayers (Columbia Ex. 2), Diana M. Beil (Columbia Ex. 3), and Melissa L. Thompson (Columbia Ex. 4); the supplemental testimony of Melissa L. Thompson in support of the Stipulation (Columbia Ex. 5); the Stipulation (Joint Ex. 1); the notice of compliance letter (Staff Ex. 1); the Staff Report (Staff Ex. 2); the direct testimony of OCC's witnesses Daniel J. Duann (OCC Ex. 1), Daniel E. O'Neill (OCC Ex. 2), and Mohammad Harunuzzaman (OCC Ex. 3); and OCC's objections to the application and Staff Report (OCC Ex. 4).

{¶ 17} Initial and reply briefs were filed by Columbia, Staff, OCC, and OPAE, consistent with the procedural schedule agreed on by the parties, on October 23, 2017, and November 7, 2017, respectively.

{¶ 18} By Entry issued December 20, 2017, the Commission directed Columbia to continue its IRP, as approved in the *2011 IRP Case*, until the Commission specifically orders otherwise in this proceeding.

{¶ 19} In its initial brief, Columbia requests, in a footnote, that the Commission take administrative notice of information on its website. The Commission's website states that the Commission "required Ohio's four major natural gas utilities to gradually update old cast iron and bare steel pipelines with more modern protected steel and plastic lines," in order "to increase natural gas pipeline safety above and beyond the federal pipeline safety regulations." (Columbia Br. at 8, fn. 42.) Columbia notes that the Commission has previously taken administrative notice of customer switch rates from the Commission's website. *In re Application of Ohio Edison Co., The Cleveland Electric Illuminating Co., and The Toledo Edison Co.*, Case No. 14-1297-EL-SSO, Opinion and Order (Mar. 31, 2016) at 79 fn. 16. No party opposed Columbia's request for administrative notice.

{¶ 20} The Commission may take administrative notice of facts that are not subject to reasonable dispute which are generally known or capable of accurate verification by a reliable source. *In re Ohio Edison Co.*, 146 Ohio St.3d 222, 2016-Ohio-3021, 54 N.E.3d 1218, ¶ 29, citing *Canton Storage & Transfer Co. v. Pub. Util. Comm.*, 72 Ohio St.3d 1, 8, 647 N.E.2d 136 (1995); *Allen v. Pub. Util. Comm.*, 40 Ohio St.3d 184, 186, 532 N.E.2d 1307 (1988). The information for which Columbia requests administrative notice meets this requirement. Accordingly, the Commission grants Columbia's request and takes administrative notice of the fact that we have ordered the four major gas utilities in the state to institute main replacement programs to increase gas pipeline safety beyond the standards imposed by federal regulations.

IV. Summary of Columbia's Application

{¶ 21} In this alternative rate plan application, Columbia seeks authority to continue its IRP, including the associated recovery mechanism, Rider IRP, for another five-year period, through December 31, 2022, with one modification. Columbia proposes new monthly maximum Rider IRP rates to be charged to Small General Service (SGS) customers, to be effective May 1 of each year (for investments made the previous calendar year), as follows:

	2018	2019	2020	2021	2022
Small General Service	$11.50	$12.80	$14.10	$15.40	$16.70

Columbia's current IRP was approved by the Commission in the *2011 IRP Case*. Columbia's IRP consists of three components: an accelerated main replacement program (AMRP), a hazardous customer service lines (HCSL) program, and an automated meter reading devices program. As currently approved by the Commission, Columbia may include, as part of the AMRP, interspersed sections of non-priority pipe, including first generation plastic pipe known as Aldyl-A, within certain specified limits, as a part of priority pipe replacement projects, when it is more economical to replace such non-priority pipe, rather than attempt to tie into the existing sections of pipe. In addition, where Columbia replaces a segment of pipe or a service line which is replaced as part of the AMRP, Columbia may capitalize and recover the costs of moving an inside meter to an outside location, subject to certain conditions. *2011 IRP Case*, Opinion and Order (Nov. 28, 2012). (Columbia Ex. 1 at 6-9; Columbia Ex. 4 at 4; Columbia Ex. 3 at 5-6.)

V. Summary of the Staff Report and Objections

{¶ 22} On July 10, 2017, the Staff Report was filed (Staff Ex. 2). As a part of its investigation, Staff issued data requests and conducted meetings with Columbia personnel responsible for implementing the IRP. Based on Staff's review of the application, testimony in support of the application, and its investigation, Staff recommended that the Commission find that the application meets the statutory requirements of an alternative rate plan application. Further, Staff concluded that Columbia and the IRP are in compliance with R.C. 4905.35, which prohibits discriminatory or preferential treatment in the provision of the Company's services. Based on its review, Staff also concluded that Columbia is in compliance with the state policies set forth in R.C. 4929.02. Staff recommended that Columbia's application to continue its IRP be approved for another five-year term commencing January 1, 2018, and continuing through December 31, 2022, pursuant to the same terms, conditions, procedures, and agreements currently effective, with one exception, the operations and maintenance (O&M) savings minimum, and subject to three recommendations. (Staff Ex. 2 at 8.)

{¶ 23} First, Staff recommended that the Commission reject Columbia's proposal to continue the previously approved O&M savings methodology. Staff recommended that the Commission direct Columbia to work with Staff and other 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. (Staff Ex. 2 at 8-9.)

{¶ 24} Second, Staff opposed Columbia's proposal to increase the annual Rider IRP rate cap. Instead, in the Staff Report, Staff recommended that the Commission maintain the current $1.00 per SGS customer per month cap for the first three years of the IRP renewal period, 2018 through 2020, and increase the cap to $1.10 per SGS customer per month for 2021 and 2022, with the following maximum SGS customer rates for the IRP renewal period:

	2018	2019	2020	2021	2022
Max. SGS Rider Rate per Month	$11.20	$12.20	$13.20	$14.30	$15.40

(Staff Ex. 2 at 9-12.)

{¶ 25} Finally, Staff recommended that the Commission give no weight to Columbia's suggestion that since customers are currently paying approximately 30 percent less for natural gas service, on a total bill basis, than customers were paying at the end of the Company's last base rate case in 2008, now is the optimal time for the Company to invest in infrastructure (Staff Ex. 2 at 12).

{¶ 26} Objections to the application and the Staff Report were filed by OCC and OPAE on August 14, 2017, and August 15, 2017, respectively. In light of the execution of the Stipulation, OPAE states that it is no longer pursuing its objections (Joint Ex. 1 at 1).

{¶ 27} In its objections to the application and Staff Report, OCC raised 15 objections, of which ten are directly and more extensively developed in its briefs in regard to the Stipulation and summarized below. In its remaining objections, OCC raises three issues with the application and Staff Report that are not directly addressed in regard to the Stipulation, specifically, that is AMRP performance, the reduction of main expenses and the reduction of service expenses (OCC Ex. 4 at 5-6, 8-10). While OCC's remaining objections are not directly addressed in its brief or reply brief, the objections are adequately addressed as part of AMRP performance and AMRP cost below.

VI. CONSIDERATION OF THE STIPULATION

A. Summary of the Stipulation

{¶ 28} As noted previously, on August 18, 2017, Columbia, Staff, and OPAE (Signatory Parties) filed a Stipulation that purports to resolve all the issues in this case. The

Stipulation also notes that while IEU is not a signatory party, IEU does not oppose the Stipulation (Joint Ex. 1 at 1). Below is a summary of the Stipulation:[1]

(a) The Signatory Parties agree that the Commission should approve Columbia's application, with the modifications specified in the Stipulation (Joint Ex. 1 at 2).

(b) The Signatory Parties agree that 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 Signatory 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. (Joint Ex. 1 at 2.)

(c) The Signatory Parties believe contentious disputes regarding the monthly Rider IRP charge to be paid by Columbia's SGS Class, the amount of AMRP O&M savings, and the amount to be credited to customers can be resolved by setting maximum limits on the monthly Rider IRP charges for each year of the term of the program, while guaranteeing a minimum level of savings to be credited to customers in future Rider IRP adjustment proceedings for the same years. Columbia will continue to pass back the greater of the actual O&M savings or the minimum AMRP O&M savings listed below. (Joint Ex. 1 at 2-3.)

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1 This is a summary of the Stipulation and does not supersede or replace the Stipulation.

(d) The maximum monthly Rider IRP SGS Class rates for investments in calendar years 2018 through 2022, and the corresponding guaranteed minimum levels of AMRP O&M savings for those calendar years, will be as follows:

Investment Year	Rates Effective	Maximum Rider IRP SGS Class Rate	Minimum AMRP O&M Savings
2018	May 2019	$11.35	$2.00 million
2019	May 2020	$12.50	$2.00 million
2020	May 2021	$13.70	$2.25 million
2021	May 2022	$14.95	$2.50 million
2022	May 2023	$16.20	$2.50 million

(Joint Ex. 1 at 3).

(e) The Signatory Parties agree that for Columbia's Rider IRP adjustment cases covering investments for years 2018 through 2022, all IRP projects completed during those years are considered projects that otherwise would not have been included in Columbia's capital replacement program and, therefore, there should be no adjustments to the Rider IRP rate on that basis (Joint Ex. 1 at 3).[2]

(f) The Signatory Parties stipulate, agree, and recommend that the Commission issue a final Opinion and Order, ordering that the rates, terms, and conditions agreed to in the Stipulation are approved in accordance with R.C. 4929.05,

2 Columbia was previously required to provide evidence in its annual Rider IRP applications to show that the rider was not used to recover the costs of projects that otherwise would have been included in its capital recovery program. *In re Columbia Gas of Ohio, Inc.*, Case No. 08-72-GA-AIR, et al., Opinion and Order (Dec. 3, 2008) at 14.

4929.051(B), and 4929.11 and adopting the application, as modified by the Stipulation (Joint Ex. 1 at 5).

B. *Standard of Review of the Stipulation*

{¶ 29} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding upon 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 is especially true where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

{¶ 30} The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *See, e.g., In re Dominion Retail, Inc. v. The Dayton Power and Light Co.*, Case No. 03-2405-EL-CSS, et al., Opinion and Order (Feb. 2, 2005); *In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al., Opinion and Order (Dec. 30, 1993); *In re Cleveland Elec. Illum. Co.*, Case No. 88-170-EL-AIR, Opinion and Order (Jan. 31, 1989). 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. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

(a) Is the settlement a product of serious bargaining among capable, knowledgeable parties?

(b) Does the settlement, as a package, benefit ratepayers and the public interest?

(c) Does the settlement package violate any important regulatory principle or practice?

{¶ 31} The Supreme Court of Ohio has endorsed the Commission's analysis using these criteria to resolve cases 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 v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 126, 592 N.E.2d 1370 (1992). Additionally, although not binding upon it, the Commission may place substantial weight on the terms of a stipulation. *Consumers' Counsel* at 126.

1. IS THE SETTLEMENT A PRODUCT OF SERIOUS BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?

{¶ 32} Columbia, Staff, and OPAE contend the Stipulation meets the first criterion of the Commission's test to evaluate stipulations. Columbia offered testimony that the Stipulation is the culmination of an open negotiation process where all parties were invited to the negotiations. During the negotiations, Columbia states all parties were afforded the opportunity to participate in the negotiations and were represented by able counsel and technical experts familiar with regulatory matters before the Commission. Signatory Parties aver that all parties presented settlement positions and proposals for discussion and consideration. Columbia offers that the Stipulation represents a comprehensive compromise of the issues in this matter. According to the Signatory Parties, the Stipulation represents a comprehensive, reasonable resolution of the issues and should be adopted by the Commission. (Columbia Ex. 5 at 3-4; Staff Br. at 5-6; OPAE Br. at 1.)

{¶ 33} In determining whether a stipulation is the product of serious bargaining, OCC argues the Commission has routinely considered whether the parties were afforded an opportunity to engage in an open meeting process, to review settlement proposals or to participate in discussions, and whether the settlement occurred after a lengthy period of review, discussion, and negotiations. According to OCC, this Stipulation does not satisfy any of the factors the Commission routinely considers regarding the first criterion. OCC argues that the Stipulation is not the product of serious bargaining, as only one all-party meeting occurred and Columbia did not circulate a settlement offer before or during the meeting. OCC states that six business days after the initial meeting, OCC submitted a counteroffer to Columbia. Without any further discussion, negotiation, or bargaining, OCC declares that Columbia apparently rejected OCC's counteroffer and filed the Stipulation with the Commission. OCC notes that no further all-party meetings were held after the Stipulation was circulated; however, the intervenors and Staff engaged in a telephonic settlement discussion. OCC indicates that the Stipulation was rushed through in a week and a half and was not the product of serious bargaining. Accordingly, OCC argues the Stipulation should be rejected. (OCC Ex. 1 at 22-23; OCC Br. at 11-13.)

{¶ 34} Based on the record, it is undisputed that all parties to this proceeding were afforded the opportunity to participate in settlement meetings and were represented by able counsel and technical experts familiar with regulatory matters before the Commission. Further, no party asserts a particular customer class was specifically excluded from participating in negotiations. OCC acknowledges two counteroffers to Columbia's initial settlement proposal were presented, although OCC's counteroffers were apparently rejected. It is not a requirement of serious bargaining that an offer or counteroffer be accepted nor is it indicative of serious bargaining that the process be protracted. There is not a preferred method of communicating an offer or counteroffer, whether by in-person meetings, telephone conference, or electronic mail, to comply with the first criterion of the three-part analysis. At any time in the negotiation process, any two parties to a Commission case may enter into an agreement to resolve some or all of the issues raised in the case. According to Columbia, in this instance, Staff, IEU, OPAE, and the Company had an opportunity to review OCC's counteroffer and rejected it. Columbia, Staff, and OPAE subsequently executed the Stipulation and filed the Stipulation with the Commission.

2. Does the Settlement, as a Package, Benefit Ratepayers and the Public Interest and Does the Settlement Package Violate Any Important Regulatory Principle or Practice?

{¶ 35} The Signatory Parties declare the Stipulation, as a package, complies with the second and third criteria the Commission uses to evaluate a stipulation. Columbia and Staff note the Commission has previously held that the IRP, including specifically the HCSL program, promotes the public interest by allowing Columbia to take responsibility for the maintenance, repair, and replacement of potentially hazardous or hazardous customer-owned service lines. *In re Columbia Gas of Ohio, Inc.*, Case No. 07-478-GA-UNC (*2007 IRP Case*), Opinion and Order (Apr. 9, 2008) at 29, 34-35; *In re Columbia Gas of Ohio, Inc.*, Case No. 08-72-GA-AIR, et al. (*2008 IRP Case*), Opinion and Order (Dec. 3, 2008) at 13-15, 26. Further, Columbia asserts that certain types of gas mains explicitly included in the approved AMRP, specifically bare steel, unprotected coated steel, wrought iron, and cast iron, are typically more likely to leak due to their material type, protection, age, and other characteristics. Columbia and Staff contend the Stipulation will promote safety and improve reliability, enhance customer service as a result of reduced outages, and reduce the financial impact on customers in comparison to the proposed rate increases requested by Columbia in its application. Staff endorses the benefits of Columbia's AMRP and emphasizes that the Stipulation is to be evaluated, as a package, which in its entirety must benefit the public interest. (Joint Ex. 1; Columbia Ex. 2 at 2; Columbia Ex. 5 at 4-5; Staff Reply Br. 3-5; OPAE Br. at 2-3.)

{¶ 36} Signatory Parties declare that the Stipulation also satisfies the third criterion. Columbia notes that the Commission has previously determined that Columbia's IRP violates no important regulatory principle or practice and the application, as modified by the Stipulation, merely extends the existing programs with a small increase in the Rider IRP rate caps and an increase in the annual guaranteed O&M savings amount. *2011 IRP Case*, Opinion and Order (Nov. 28, 2012) at 11. Staff reasons that none of the individual provisions of the Stipulation is inconsistent with or violates any important Commission principle or practice. Further, Staff advocates that the Stipulation is also consistent with the Company's past applications for extension of the IRP as well as the Commission's orders approving the IRPs of other gas utilities. The IRP, Columbia avers, continues to reduce the safety risk associated with corrosion-prone customer service lines, to improve the safety and reliability of service, to facilitate Columbia's investment in infrastructure, and to enhance Columbia's ability to continue to offer adequate, reliable, and reasonably priced natural gas services, consistent with state policies. R.C. 4929.02(A). (Columbia Ex. 4 at 9; Columbia Ex. 5 at 5; Staff Br. at 9; OPAE Br. at 3.)

{¶ 37} OCC submits that the Stipulation should be rejected as it fails to benefit consumers or the public interest and violates regulatory principles and practices, specifically as to the HCSL, AMRP O&M savings methodology and amount, AMRP non-priority pipe installations, and the cost-effectiveness of the AMRP/IRP, as discussed in more detail below.

a. HCSL Program

{¶ 38} OCC notes that the Commission denied the alternative rate plan application of Duke Energy Ohio, Inc. (Duke) to implement an accelerated service line replacement program (ASRP) on the basis that Duke failed to demonstrate that its ASRP was just and reasonable based on four factors: (1) the costs and benefits of the program, including the probability and likelihood that the alleged risk to safety will occur; (2) whether the utility considered other feasible alternatives; (3) whether the utility reevaluated historical solutions to ensure they are continuing to improve distribution systems and the strategies utilized to increase safety; and (4) whether accelerated cost recovery treatment is necessary considering the effective risk mitigation measures already in place. *In re Duke Energy Ohio, Inc.*, Case No. 14-1622-GA-ALT (*Duke ASRP Case*), Opinion and Order (Oct. 26, 2016) at 33-46. OCC states Columbia's HCSL suffers from the same inadequacies as the Duke ASRP and should be rejected by the Commission. OCC argues that, like Duke, Columbia failed to carry its burden of proof to conduct a cost-benefit analysis of its HCSL program. OCC argues, however, that even if such analysis had been performed, the costs to customers, $125 million over the five-year term of the AMRP, outweighs the benefits of the program, as the risk associated with customer service lines is essentially non-existent. (Columbia Ex. 1 at 6; OCC Ex. 3 at 17-18, Att. MH-3, MH-5, MH-8.)

{¶ 39} OCC declares that Columbia did not provide any details about the costs of the HCSL program, only projected costs based on the Company's past experience, and did not provide any standard for the replacement of a service line, as Columbia relies on its technicians' expertise. OCC emphasizes that the Commission has determined that the probability or likelihood of an incident is a factor the Commission considers in evaluating an alternative rate application. *Duke ASRP Case* at 37-39, 44. Given that service lines operate at a much lower pressure than mains, OCC declares service lines present a significantly lower, if any, imminent safety risk. Columbia, according to OCC, did not present any quantification of the safety risk posed, the lower risk to be achieved, or the expected improvement in reliability as a result of the HCSL. Further, OCC notes that the risk of a service line failure, as a result of corrosion, material weld failure or natural forces, results in a reportable incident in any given year of only one time in 11.9 million. *Duke ASRP Case* at 37. In light of the minimal risk, OCC concludes the HCSL program benefits asserted by Columbia are outweighed by the costs of $25 million annually. On that basis, OCC concludes the HCSL does not benefit customers or the public interest and approving the HCSL under such circumstances violates regulatory principles and practices, as the Commission determined in the *Duke ASRP Case*. (OCC Ex. 3 at 17-18, Att. MH-8.)

{¶ 40} OCC notes that Columbia admits that it did not consider any other methods or programs to address the risk that the HCSL is designed to mitigate or re-evaluate the HCSL program for improvements to increase the benefits of the program or to improve the safety of the system, as required in the *Duke ASRP Case*. *Duke ASRP Case* at 33-35, 37-39. OCC reasons that Columbia did not provide any record evidence to satisfy the requirement to demonstrate whether the accelerated cost recovery is necessary considering the effective risk mitigation measures already in place. *Duke ASRP Case* at 35-36, 45. OCC argues that it is not in the public interest to propose a program without considering alternative methods. According to OCC, in the *Duke ASRP Case*, another factor that the Commission reviewed is whether the utility considered any other feasible alternatives to its proposed ASRP. *Duke ASRP Case* at 33-35. OCC notes that the Commission has gas pipeline safety rules, Ohio Adm.Code Chapter 4901:1-16, which require Columbia, as a gas distribution utility, to repair or replace pipe depending on the severity of the leak discovered. By OCC's calculation, only 34 percent of leaking service lines replaced by Columbia from 2011 through 2016 were hazardous grade one leaks. OCC reasons the remaining 66 percent of service lines replaced were either not leaking or were leaks which would not require immediate repair pursuant to the gas pipeline safety rules. Therefore, OCC concludes there are no alleged risks that the HCSL is intended to mitigate that the gas pipeline safety rules do not address. *Duke ASRP Case* at 43. Further, OCC concludes for the foregoing reasons the HCSL program does not benefit customers or the public interest. (OCC Ex. 3 at 11, 13.)

{¶ **41**} From OCC's perspective, the HCSL program violates the third prong of the test used to evaluate stipulations, as the program does not ensure that customers are able to obtain reasonably priced natural gas service, in accordance with R.C. 4929.02(A)(1). The cost of Columbia's HCSL program, according to OCC, unjustly and unreasonably increases customers' utility bills, through Rider IRP, by approximately $37 annually. Further, OCC asserts Columbia has used the HCSL to justify increases in the Rider IRP rate caps. Accordingly, OCC reasons the continuation of the HCSL program, as reflected in the application and modified by the Stipulation, is not a benefit to customers or to the public interest and violates the second and third criteria of the test used to evaluate stipulations. (OCC Ex. 2 at Att. DEO 7; OCC Ex. 3 at 22; Joint Ex. 1; OCC Br. at 31, 47.)

{¶ **42**} Columbia replies that OCC's comparison to the *Duke ASRP Case* is misplaced. According to Columbia, in the *Duke ASRP Case,* Duke's ASRP proposed the systematic replacement of 58,000 pre-1971 unprotected metallic service lines over a ten-year period irrespective of leaks. Signatory Parties note, as the Commission recognized, no other gas utility has a program like the one proposed in the *Duke ASRP Case*. In comparison, Columbia notes its HCSL program seeks to resolve risks on service lines when they arise, not before. *Duke ASRP Case*, Opinion and Order (Oct. 26, 2016) at 42. (Columbia Reply Br. at 5-8.)

{¶ **43**} As background, Columbia emphasizes that its HCSL program was instituted at the request of the Commission to ensure "[t]he future maintenance, repair and replacement of customer-owned service lines that have been determined by Columbia to present an existing or probable hazard to persons and property" and to recover its costs through Rider IRP. *2008 IRP Case*, Opinion and Order (Dec. 3, 2008) at 8. Columbia states that, on appeal, the Commission's decision to implement the IRP, including the HCSL was upheld by the Ohio Supreme Court. *Util. Serv. Partners Inc. v. Pub. Util. Comm.*, 124 Ohio St.3d 284, 2009-Ohio-6764, 921 N.E.2d 1038. Columbia notes that other large natural gas companies in Ohio, Vectren Energy Delivery of Ohio, Inc. (Vectren), The East Ohio Gas Company d/b/a Dominion Energy Ohio (Dominion), and Duke, under similar programs, have assumed the responsibility to maintain, repair, and replace customer service lines. Therefore, Columbia and Staff contend OCC's comparisons are misplaced and should be rejected by the Commission. (Columbia Reply Br. at 5-8; Staff Reply Br. 8-10.)

{¶ 44} First, the Commission finds OCC's comparison to the *Duke ASRP Case* to be incongruous and without merit. In the *Duke ASRP Case*, Duke sought approval to initiate a program to replace approximately 58,000 customer service lines with accelerated cost recovery. Ultimately, the Commission denied Duke's ASRP application, specifically acknowledging "that no other local distribution company has implemented a service line replacement program comparable to the ASRP" as proposed by Duke. *Duke ASRP Case*, Opinion and Order (Oct. 26, 2016) at 7, 31, 42. We note that, at the time the Commission was considering Duke's application, Columbia's HCSL had initially been approved in the *2007 IRP Case* and subsequently extended in the *2011 IRP Case*. The Commission has determined that Columbia's HCSL program protects the customer's property, the property of the customer's neighbors, and the public safety. *2007 IRP Case*, Opinion and Order (Apr. 9, 2008) at 29. Through the HCSL program, Columbia replaces customer service lines with leaks or where there is an immediate probable hazardous condition, like other programs approved by the Commission for the large gas distribution utilities. Accordingly, the Commission finds that Columbia's HCSL program is distinguishable from the program proposed by Duke and rejected by the Commission and the criteria stated in the *Duke ASRP Case* are not applicable.

{¶ 45} We note that Columbia has requested that the HCSL, as well as the other programs incorporated in its AMRP, be continued without change to the terms, conditions, or processes for the programs, with the exception of the request to increase the monthly Rider IRP rate cap. The Commission finds that circumstances have not changed and no rationale has been presented to conclude that the necessity of the HCSL program is any different than when the program was initially approved by the Commission in the *2007 IRP Case* and subsequently extended in the *2011 IRP Case*. The Commission recognizes that the cost of the HCSL is not and cannot be based on planned work, as customer service lines are maintained, repaired, or replaced as Columbia determines the line to be a potential hazard or hazardous. Where the number and extent of customer service lines to be repaired or replaced is unknown, it is reasonable to rely on the Company's past experience, at least initially, to project the HCSL costs. We note Columbia reports the HCSL investment over the last five years averaged approximately $21.4 million annually (OCC Ex. 3 at Att. MH-2 at 3). The record supports the continuation of the HCSL to allow Columbia to continue to take responsibility for all maintenance, repair, and replacement of customer service lines determined to present an existing or probable hazard (Columbia Ex. 5 at 5). The HCSL program relieves the customer of the potentially significant financial burden of maintaining, repairing, and replacing the service line or the possibility of below standard repairs by unqualified persons. *2007 IRP Case*, Opinion and Order (Apr. 9, 2008) at 32-33. For these reasons, the Commission finds it reasonable and appropriate to extend Columbia's HCSL. However, we direct Columbia to work with Staff to develop a process by which Columbia's technicians determine a customer service line to be potentially hazardous or hazardous and to create and maintain records, sufficient for auditing, that demonstrate that the repaired or replaced service line meets the process established, including an explanation for any exceptions and to ensure the Company's records reflect the accurate location of newly installed or repaired service lines.

{¶ 46} The Commission notes that the projected cost of the HCSL and the total AMRP will be aligned with actual costs in the review of Rider IRP. The Commission has determined and continues to find that the HCSL program is beneficial to the protection of Columbia's customers, their property, their neighbors' property, and the public interest. While OCC has focused solely on the cost of the HCSL, the Commission finds that the cost of the HCSL program is in balance with the benefits provided by the program and as part of the Stipulation package.

b. AMRP Savings Methodology and Minimum Amount

{¶ 47} Columbia's AMRP O&M savings process, as currently approved, is calculated based on the actual expenses from avoided leak inspection, leak repair, general and other, and half of supervision and engineering. Columbia's actual O&M savings is then compared to a guaranteed minimum O&M savings amount and whichever amount is greater is credited to customers by way of a reduction in the revenue requirement for the AMRP. *2011 IRP Case*, Opinion and Order (Nov. 28, 2012) at 7-8. (Columbia Ex. 1 at 5-6, Ex. A at 5.)

{¶ 48} In the pending application, Columbia proposed that the Commission extend the AMRP, including the O&M savings methodology and guaranteed minimum savings amount for 2017 of $1.25 million through 2022 (Columbia Ex. 1, Ex. A at 10). The Stipulation reflects an increase in the guaranteed minimum O&M savings to $2.0 million for 2018 and 2019, $2.25 million for 2020, and $2.5 million for the reminder of the AMRP term through 2022 (Joint Ex. 1 at 3).

{¶ 49} OCC emphasizes that Columbia has costs for leak surveillance, leak repair, and the related supervision and engineering built into the base rates set in the Company's last rate case in 2008. *2008 IRP Case*, Opinion and Order (Dec. 3, 2008). OCC argues that the O&M savings methodology and Columbia's actual savings are inconsistent with the expectations for a ten-year old AMRP and the savings experience of other gas utilities with similar programs using similar methodologies to compute O&M savings. OCC states that, as recognized in the Staff Report, all Ohio gas utilities, including Columbia, maintained that, as long as base rates are not reset, AMRP O&M savings should increase as each utility's respective program matures and more miles of pipe are replaced. OCC notes that Columbia admits the number of leaks has decreased since the inception of the IRP; however, Columbia's current O&M savings methodology has not produced actual savings greater than the minimum guaranteed amount for 2013 through 2017. OCC argues the savings methodology does not afford customers the ability to ever receive more than the minimum, particularly in light of the history of Columbia's program. For that reason, OCC advocates an increase in the guaranteed minimum O&M savings to at least $3.0 million by 2022. On that basis, OCC avers the Stipulation unjustly and unreasonably extends the same O&M savings methodology, fails to adequately increase the minimum savings amounts, and overstates the revenue requirement, which increases the Rider IRP rate caps. Accordingly, OCC argues the O&M savings methodology, the guaranteed savings amount, and the amount of the Rider IRP rate caps, as reflected in the Stipulation, do not benefit Columbia's customers and are not in the public interest. OCC also argues that to the extent that the O&M savings amount is insufficient, and the revenue requirement overstated, the proposed Rider IRP rate caps fail to satisfy the third criterion of the three-part test because they include costs from an unjust and unreasonable AMRP O&M savings mechanism. (Staff Ex. 2 at 8-9; OCC Ex. 2 at 10-12, 21; OCC Br. at 24-26, 48.)

{¶ 50} In response, Columbia argues that OCC does not explain how the savings methodology should be revised, identify any specific faults with the methodology, or explain how the current methodology for determining actual savings is unjust or unreasonable. Further, Columbia states OCC does not explain how OCC determined the guaranteed savings should be at least $3.0 million, or more, by 2022 and how this results in the Stipulation failing to meet the three-part test for evaluating stipulations. Columbia notes that under the Stipulation, the guaranteed savings over the five-year term equals a total of $11.25 million (Joint Ex. 1 at 3). In comparison, Columbia points out that Dominion's Pipeline Infrastructure Replacement (PIR) program approved by the Commission incorporates minimum O&M savings of $1.0 million per year plus 50 percent of actual O&M expense savings in excess of $1.5 million. *In re The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 11-2401-GA-ALT, Opinion and Order (Aug. 3, 2011) at 7. Subsequently, the

Commission approved, as part of Dominion's PIR program, an O&M shared savings mechanism including $1.0 million per year minimum savings. *In re The East Ohio Gas Co. d/b/a Dominion East Ohio,* Case No. 15-362-GA-ALT, Opinion and Order (Sept. 14, 2016) at ¶ 36. (Columbia Reply Br. at 8-9.)

{¶ 51} The Commission notes, as reflected in the Stipulation, the total O&M minimum AMRP savings guarantee has increased by $4.5 million over the prior AMRP period, 2012 through 2017. OCC advocates that the guaranteed minimum O&M savings amount should be increased to at least $3.0 million by 2022, but does not explain how the amount was determined. The Commission finds that the O&M minimum AMRP savings, as reflected in the Stipulation, is within the range of the actual savings and guaranteed minimum savings amounts of other gas utilities with similar savings methods and programs. *2011 IRP Case,* Opinion and Order (Nov. 28, 2012) at 7-8. Therefore, the Commission concludes this aspect of the Stipulation is reasonable, benefits consumers, and does not violate an important principle or practice.

c. *Interspersed Non-priority Pipe*

{¶ 52} OCC submits that Columbia's AMRP includes excessive miles of non-priority pipe which unjustly and unreasonably increase the costs to customers via Rider IRP. In the Company's prior IRP extension case, as part of a Stipulation, the Commission approved the installation of non-priority pipe, not to exceed five percent of the priority pipe installed as part of the AMRP, where it is more economical to replace the non-priority pipe than to tie into existing sections of pipe. *2011 IRP Case,* Opinion and Order (Nov. 28, 2012) at 5, 12. In the current application, OCC states that Columbia appears to be projecting the need to replace non-priority pipe at the rate of 40 percent of the priority pipe replaced. OCC argues there is no record evidence that non-priority pipe provides any substantial safety benefit. OCC also argues that non-priority pipe is projected to be installed at a rate that cannot be deemed reasonably cost-effective. Therefore, OCC concludes it is unreasonable and unjust to increase the Rider IRP rate caps for the costs associated with the replacement of excessive non-priority pipe and to pass on the costs to Columbia's customers. On that basis, OCC argues the Stipulation does not benefit consumers and violates regulatory principles and practices and should be rejected. (OCC Ex. 2 at 13-14; OCC Br. at 26-28, 48-49.)

{¶ 53} Columbia states that OCC's premise is based on an incorrect calculation of the proportion of non-priority pipe to be replaced. Historically, Columbia calculates that, under the AMRP, of the total pipe replaced, priority pipe is 71.4 percent of the pipe replaced and non-priority pipe is approximately 28.6 percent of the pipe replaced. Further, Columbia avers OCC fails to offer any reason why the percentage of non-priority pipe replaced is, in OCC's opinion, excessive or offer a different percentage or alternative guideline to replace the metrics for replacing interspersed non-priority pipe. Accordingly, Columbia requests that the Commission extend the IRP, including the guidelines for the replacement of non-priority pipe, as currently approved. (OCC Ex. 2 at Att. DEO-4; Columbia Reply Br. at 10-11.)

{¶ 54} As noted by Columbia, and recognized by OCC, in the Company's prior IRP case, the Commission approved the replacement of non-priority pipe, within specified limits, as part of an AMRP project. *2011 IRP Case*, Opinion and Order (Nov. 28, 2012) at 5, 13. OCC incorrectly concludes that Columbia projects to increase the amount of non-priority pipe to be replaced to approximately 40 percent of the priority pipe replaced. More specifically, the replacement of non-priority pipe is limited to include interspersed sections of non-priority pipe contained within the bounds of priority pipe replacement projects where it is more economical to replace such non-priority pipe, rather than connect to the existing sections of pipe.[3] OCC has made no claim that Columbia is replacing non-priority pipe beyond the specified limits or that the Company does not comply with the economical to replace test and, therefore, that the non-priority pipe replacement should be excluded from the AMRP and Rider IRP. For these reasons, the Commission is not persuaded that

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3 The analysis to be used to determine what constitutes "economical to replace" is based on the analysis attached to Columbia witness Eric Belle's testimony in the *2011 IRP Case* filed on May 8, 2012.

any amendment to the installation of non-priority pipe as a part of AMRP projects is necessary at this time. Accordingly, the record of evidence supports the continuation of Columbia's ability to replace non-priority pipe consistent with the application, as revised by the Stipulation. The Commission finds the replacement of non-priority pipe, pursuant to the adopted specifications approved in the *2011 IRP Case*, as modified by the Stipulation, to be reasonable, economically beneficial, and an efficient use of resources, which ultimately benefits customers and the public interest. Therefore, the Commission cannot find that the record supports that the IRP violates, as OCC advocates, any important regulatory principle or practice such that the Stipulation or this part of the Stipulation should be rejected. *2011 IRP Case*, Opinion and Order (Nov. 28, 2012) at 5. (Columbia Ex. 1, Ex. A at 4-5; Joint Ex. 1 at 2.)

d. Cost Per Leak Avoided

{¶ 55} OCC declares the cost per leak avoided is an essential test for evaluating the cost-effectiveness of the IRP and the benefit to customers. Columbia's cost per leak avoided, according to OCC, is incredibly high and Columbia has failed to present any analysis to project the future level of leaks based on alternative levels of replacement of leak-prone mains and services. Without such an analysis, OCC reasons that Columbia does not plan to improve its cost per leak avoided or the overall cost-effectiveness of the IRP, which is unjust and unreasonable. In addition, OCC claims Columbia's cost per leak avoided is a violation of accepted regulatory principles and practices. OCC reasons a pipeline replacement program is generally only continued when it is proven to be sufficiently efficient and effective. Therefore, OCC submits the Stipulation does not meet the second or the third criterion used by the Commission to approve a stipulation. To remedy the inadequacy, OCC recommends that the Commission direct that a collaborative study or third-party audit of Columbia's IRP be conducted by Staff or an independent auditor to determine how the program can be implemented more effectively and efficiently, including reducing leaks, improving safety, and minimizing cost per mile and cost per leak avoided. Further, OCC recommends, much like OCC did in its objections, that the Commission direct Columbia to maintain detailed records over the next five-year term of the IRP such that interested parties can monitor and evaluate the IRP's efficiency and effectiveness going forward. (OCC Ex. 2 at 14-17, Att. DEO-5; OCC Ex. 4 at 5-6; OCC Br. at 28-31.)

{¶ 56} In response, Columbia states that OCC has not provided any justification for the use of its cost per leak avoided metric, explained the source of the metric, or cited any proceeding where this Commission reviewed and implemented a cost per leak avoided metric in determining whether to continue an AMRP. Further, Columbia alleges the cost per leak avoided metric, as proposed by OCC, is based on unsupported assumptions-namely, that 2010 is a reasonable benchmark against which to measure future performance, that the number of leaks cleared in any year represents the number of new leaks discovered in that year, and that any change in the number of leaking mains cleared system-wide can be attributed solely to the systematic replacement of specific kinds of mains under the AMRP. Columbia submits that OCC's arguments overlook the fact that the fundamental safety concerns associated with specific types of mains, not all pipelines, were the reason for implementing Columbia's AMRP. Lastly, the Company states that OCC failed to justify its proposed remedy to institute a Staff or independent audit of the AMRP, including new and burdensome records requirements. Columbia notes that it has implemented processes to levelize the workload to make contractors use crews more efficiently and to reduce the increases in cost per priority mile over the last four years of the AMRP. Columbia also notes that Staff audits Columbia's AMRP annually through the Company's Rider IRP adjustment cases, in addition to each proceeding where Columbia has presented evidence to justify the creation and extension of its IRP. Thus, Columbia argues that OCC's request for an additional audit of the AMRP is superfluous. Columbia concludes that OCC's stated concerns regarding the cost-effectiveness of the AMRP do not justify rejecting or revising the Stipulation as presented in this case. (OCC Ex. 2 at 16-17, Att. DEO-6; Columbia Ex. 2 at 8; Columbia Ex. 3 at Att. DMB-1; Columbia Reply Br. at 11-14.)

{¶ 57} The Commission has not imposed a cost per leak avoided metric or other strict performance criteria on Columbia's or any other gas distribution utility's AMRP and we are not convinced it is appropriate to initiate such a standard in this case. We note that as part of the consideration of the annual Rider IRP application, aspects of the IRP are reviewed and evaluated, including but not limited to costs, compliance with program directives and the accuracy and sufficiency of program records. Accordingly, the Commission will not require an additional audit of Columbia's AMRP, at this time.

e. Cost of AMRP

{¶ 58} OCC notes that Columbia proposes a maximum increase in the IRP Rider rate caps over the extended term of the AMRP. OCC declares that the increase in the annual IRP rate caps, even as modified by the Stipulation, violates regulatory principles and practices, is not in the public interest, and does not benefit consumers. OCC submits that a reasonable increase in the rate cap would be less than $1.00 per year over the IRP term. Thus, the rate caps in the Stipulation, according to OCC, unjustly and unreasonably increase customers' utility bills and, therefore, are not in the public interest. More specifically, OCC challenges the rate of return (ROR), the rate of inflation in cost per mile replaced, and the number of miles replaced, as key factors unreasonably increasing the cost of the program, including the requested increase in the Rider IRP rate cap, as being in violation of regulatory principles and practices. (OCC Ex. 2 at 20; OCC Br. at 31-32.)

(i) Rate of Return

{¶ 59} OCC witness Duann declares there is no record evidence which supports the pre-tax 10.95 percent ROR requested, except a single sentence in the application, which the witness notes is derived from Columbia's last base rate case. *2008 IRP Case*, Opinion and Order (Dec. 3, 2008). Based on OCC's analysis, Columbia's requested ROR is overstated, unreasonable, and out of date. OCC recommends a pre-tax ROR of 10.17 percent to determine the revenue requirement for Rider IRP, as Columbia did not demonstrate any unusual or substantially high business or financial risk or an inability to access capital. OCC notes that a Maryland affiliate of Columbia recently proposed a 9.7 percent return on equity (ROE) and a 7.352 percent ROR, which is well below the after-tax 10.39 percent ROE and 8.12 percent ROR proposed by Columbia in this proceeding. OCC determined that the ROR proposed in the Stipulation would cause customers to incur $62 million more over the five-year term of the AMRP, as compared to the ROR that OCC proposes. OCC argues the higher ROR would violate regulatory principles and practices because: (1) it would be significantly higher than the ROR authorized for other regulated gas utilities across the country in recent years; (2) it would be significantly higher than the reasonable ROR supported by current financial market conditions and the state of the economy; (3) it would allow Columbia to use an ROR that will be 15 years old by the end of this AMRP; (4) it would allow for charges to customers that are not just and reasonable; and (5) it would provide the opportunity for Columbia's shareholders to earn an unjust and unreasonable return on their invested capital in comparison to other investments available. (Columbia Ex. 1 at 9, Ex. A; OCC Ex. 1 at 6-7, 10-12, 14-16, 17-19; OCC Br. at 32-38.)

{¶ 60} Columbia emphasizes that Ohio law provides that an alternative rate plan application be considered not for an increase in rates where the proposed charges are based on the billing determinants and cost allocation methodology utilized in the utility's most recent rate case proceeding. Columbia notes that the current alternative rate plan extension application, like the past extension application, seeks to continue the previously approved plan pursuant to R.C. 4929.051(B). Therefore, Columbia states it is appropriate for the Company to continue to use the ROR approved when the Commission originally approved Rider IRP. Columbia also notes the report OCC relies on for the ROR granted to gas utilities across the country acknowledges that it is extremely rare that a ROE is determined as a component of a limited issue rider case, like this proceeding, and when an ROE is determined in a rider case, it is typically higher than the ROE established in general rate cases. (OCC Ex. 1 at 11, Att. DJD-3; Columbia Reply Br. at 15-17.)

{¶ 61} Staff states, and Columbia agrees, that the appropriate time to set a utility's ROR is in a base rate case, when all the factors that affect the ROR are subject to review simultaneously. Signatory Parties note the approved ROR is subsequently applied in the utility's individual programs. Staff contends that the Commission has followed this logic in other gas infrastructure replacement proceedings, including Columbia's *2011 IRP Case*. *2011 IRP Case*, Opinion and Order (Nov. 28, 2012); *In re The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 11-2401-GA-ALT, Opinion and Order (Aug. 3, 2011); *In re The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 15-362-GA-ALT, Opinion and Order (Sept. 14, 2016); *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 13-1571-GA-ALT, Opinion and Order (Feb. 19, 2014). Therefore, Staff concludes it is consistent with Commission policy to implement the ROR established in the Company's last base rate case for the AMRP. (Staff Reply Br. at 11; Columbia Reply Br. at 16-17.)

{¶ 62} Each utility's ROR is extensively reviewed and each component evaluated and analyzed as part of a utility's rate case proceeding. It is the Commission's policy to apply the approved ROR to subsequent programs and the associated rider applications. *2011 IRP Case*, Opinion and Order (Nov. 28, 2012); *In re The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 11-2401-GA-ALT, Opinion and Order (Aug. 3, 2011); *In re The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 15-362-GA-ALT, Opinion and Order (Sept. 14, 2016); *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 13-1571-GA-ALT, Opinion and Order (Feb. 19, 2014). To do otherwise, as Staff notes, would result in a hodgepodge of RORs applicable to the utility's individual programs and the associated riders. It is a basic element of R.C. 4929.051(B) that an alternative rate plan application be based on the billing determinants approved in the utility's last base rate proceeding, including the ROR. For these reasons, the Commission finds OCC's arguments to adjust the ROR in this proceeding to be unpersuasive.

(ii) Cost per Mile Rate of Inflation

{¶ 63} OCC asserts that Columbia employs, and Staff accepts, as an appropriate rate of inflation, a 6.47 percent increase per year to the Rider IRP rate caps based on the annual increase in the cost per mile from 2013 to 2016. Although Columbia alleges the reason for the increase is mainly due to the rising costs of pipeline labor and construction costs, which the Company expects to continue through 2022, OCC asserts gas utility construction and labor costs in the United States and in Ohio have decreased in the years 2013 through 2016 and should continue to be lower than the period 2013 through 2016. OCC submits that the Federal Reserve Bank determined the rate of inflation was approximately 2.0 percent. OCC claims that if Columbia had managed its construction costs for 2008 to 2012 comparably to the rest of the industry, the Company would have seen a decrease in expenditures for 2013 to 2016, not an increase. Thus, OCC requests that Columbia's proposed rate of inflation be rejected and a rate closer to 2.0 percent be implemented, which will decrease the costs to customers. (OCC Br. at 39-40; OCC Ex. 2 at 21-26, 27-29; Columbia Ex. 2 at 5-8; Staff Ex. 2 at 6.)

{¶ 64} Further, OCC argues that the pace of oil and gas exploration in the Midwest, as defined by rig count, particularly over the last 18 months, has declined, which results in less work available and a less contested job market and translates to lower labor costs. According to OCC, the peak in gas construction costs and the cost of crude, which is directly correlated to rig count, occurred in 2015. OCC notes that the cost of crude has rebounded but is still well below the peak and is not expected to return to the levels experienced from 2012 to 2014. Therefore, OCC reasons that labor cost should continue to be less costly in the future than in the period 2013 to 2016. OCC avers that the Handy-Whitman Index confirms that Columbia's cost inflation rate is overstated. Accordingly, OCC states pipeline construction costs are decreasing, not increasing as Columbia alleges. (OCC Br. at 40-43; OCC Ex. 2 at 24-29; Staff Ex. 2 at 4.)

{¶ 65} Furthermore, OCC surmises, based on statements of the Federal Open Market Committee of the Federal Reserve Bank, that, as of December 2016, inflation will rise to two percent over the medium term. Accordingly, OCC submits it is far more reasonable to forecast inflation at approximately two percent than to forecast inflation based on Columbia's projection of recent trends. OCC notes that, from 2011 to 2016, Columbia installed, on average, 195 miles of priority pipe and will only need to replace approximately 160 miles of priority pipe annually to achieve its 25-year time frame of 4,050 miles of pipe. Further, OCC notes that while Columbia states that it has experienced a 7.2 percent cost per mile increase over the last four years and a 10.51 percent increase over the last nine years, Columbia did not exceed or even reach its Rider IRP rate cap. OCC states that the actual Rider IRP rate, in fact, was approximately $0.48 less per year on average than the Rider IRP rate cap. Nonetheless, OCC notes that although Columbia projects installing less priority pipe, an average of 35 miles per year or an 18 percent reduction, Columbia requests, and the Stipulation includes, increases in the Rider IRP rate caps over the next five years. Thus, OCC asserts the increases in the Rider IRP rate cap are unjustified, do not benefit customers or the public interest, and violate regulatory principles and practices. OCC argues the practical effect of the Stipulation is an increase in the Rider IRP rate cap of $2.39 over the two-year period from 2016 to 2018, which will expose customers to rate shock and raise rates drastically in a short period of time, thus violating the regulatory practice and principle of gradualism. (OCC Ex. 2 at Att. DEO 4; Joint Ex. 1 at 4; Staff Ex. 2 at 4; OCC Br. at 44-47.)

{¶ 66} Columbia responds that the data points which OCC proposes be utilized to determine the cost per mile rate of inflation over the next five years of the AMRP have been mischaracterized and do not include the most recently available information. Columbia submits that while the rig count in Ohio decreased between January 2015 and May 2016, the rig count has rebounded to April 2015 levels as of June and July 2017. Further, Columbia states the Handy-Whitman Index actually reflects that the cost of constructing steel gas mains began to increase in early 2016 after reaching a five-year low and, with the exception of July 2014, the cost of constructing cast iron mains has steadily increased since January

2011 through July 2016. The Company emphasizes that OCC's analysis ignores the Handy-Whitman Index construction cost data for January 2016 and January 2017, overlooking significant increases in construction costs for both cast iron and steel mains. Further, Columbia declares that OCC fails to provide any explanation why the Federal Reserve's target for inflation for 2017 should be used as a guide for projecting Columbia's AMRP costs for 2018 through 2022. In comparison, the Company notes that cost increases in the AMRP are primarily attributable to surface restoration expenses and directional boring expenses. Columbia expects its costs will increase over the next five years as a result of increased demand for qualified construction crews and the revitalization of shale drilling in Ohio. Therefore, according to Columbia, the evidence demonstrates that the federal inflation target and Columbia's historic AMRP cost since 2011 are not comparable. Columbia asserts the Company's cost increases are not a result of the pace at which the Company replaced priority pipe, an average of 195 miles per year from 2011 through 2016, but rather the average cost per mile to replace bare steel, cast iron, and wrought iron mains, which increased by an average of 15.57 percent per year between 2008 and 2011. Columbia emphasizes the application incorporates a rate of inflation of 6.47 percent, the average annual rate of cost increase experienced during the most recent four years, to better represent the level of increases the Company expects over the five-year term of the extended AMRP. Columbia declares that OCC has not demonstrated that Columbia's reliance on its recent experience under the AMRP deprives customers and the public of the benefits of extending the IRP. (Columbia Reply Br. at 17; OCC Ex. 2 at 25-26, Att. DEO-11 at 3, lines 43-44, DEO-4 at 2; Columbia Ex. 2 at 5-8; Columbia Ex. 3 at 6, Att. DMB-1.)

{¶ 67} Further, Columbia states that it expects to exceed its Rider IRP cap of $10.20 in 2018, and the fact that the Company has not previously exceeded its rate cap is irrelevant and ignores that Columbia's actual Rider IRP rate increases over the past several years are consistent with the increases in the Stipulation. Accordingly, Columbia contends OCC's claims that the increase in the Rider IRP rate and the rate caps would cause rate shock for Columbia's customers is not supported by the facts, as an increase of $2.39 over a two-year period can hardly be considered rate shock. The Company notes that the Commission recently approved an increase ranging from $1.75 to $1.85, annually. *In re The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 15-362-GA-ALT, Opinion and Order (Sept. 14, 2016) at 5-6. Further, Columbia reasons that the proposed Rider IRP rate caps are in line with recent increases in the rider rate. Therefore, Columbia contends that rather than violating the regulatory principle of gradualism, as OCC asserts, the Stipulation embodies that principle by allowing no more than minimal increases in the Rider IRP rate, a maximum of $1.15, for investment years 2018 and 2019 (reflected in rates for 2019 and 2020) and phasing in greater increases in the Rider IRP rate caps over time. On that basis, Columbia recommends that the Commission conclude that the proposed rate caps are consistent with regulatory principles and practices and approve the Stipulation. (Columbia Reply Br. at 19-20.)

{¶ 68} The Commission is not persuaded that there is necessarily a correlation between the cost increase experienced for the AMRP over the last four years and the Federal Reserve's expected rate of inflation for the medium term as of December 2016, as OCC advocates. We note that the application and the Stipulation incorporate a rate of inflation cost per mile slightly less than the rate experienced over the last four years of 7.2 percent. The Commission notes that despite the increase in the cost per mile of the AMRP over the last four years, Columbia did not reach its Rider IRP rate caps. While we strongly encourage Columbia to continue to implement policies and procedures to control its program costs, the Commission finds it reasonable to include a rate of inflation cost per mile commensurate with the rate experienced in the recent past, as reflected in the application, as modified by the Stipulation. Accordingly, we find that the rate of inflation cost per mile in the application, as modified by the Stipulation, to be reasonable.

{¶ 69} Lastly, OCC asserts the Commission has routinely considered whether the Stipulation advances the public interest by serving as a just and reasonable resolution of all the issues raised in the proceeding. OCC notes that it raised a wide range of issues, as reflected in its objections to the application and the Staff Report. In OCC's opinion, the Stipulation does not meet this requirement, as it only addresses two of the issues—the maximum Rider IRP rate cap for SGS customers and the amount of the minimum AMRP O&M savings, leaving the remainder of the issues to be resolved pursuant to Columbia's application. The Stipulation does not discuss the remaining issues raised by OCC, including the pre-tax ROR, the HCSL program, the methodology for the amount of O&M savings, the amount of non-priority pipe to be replaced under the AMRP, and whether to conduct an audit of Columbia's IRP. Therefore, OCC submits that the Stipulation fails the three-part test used by the Commission to evaluate stipulations. (OCC Ex. 4; Joint Ex. 1 at 3; OCC Ex. 1 at 24-26; OCC Br. at 49-50.)

{¶ 70} The Commission disagrees with OCC's assertion that the Commission must determine that the Stipulation addresses the majority of the issues raised by the parties to be determined a reasonable resolution of the issues. In this instance, the Signatory Parties have reached an agreement to resolve the issues raised by OCC in a manner consistent with Columbia's application, as modified by the Stipulation. One of the purposes of the first criterion of the three-part test is to examine each party's ability to assess its interest in the case and decide whether to support, oppose, or be neutral with respect to a stipulation. The Commission will not reject the Stipulation purely on the basis that a non-signatory party raised objections that were ultimately resolved as proposed in the application. Nor can we find that merely because the Stipulation resolves the majority of issues in the manner that the application resolves them, that the Stipulation is not in the public interest. Whether the Stipulation revises the majority of the issues raised by a particular party does not necessarily correlate to compliance with the first or second criteria of the Commission's analysis for stipulations. To permit a party to drive the scope of the issues that must be revised in the Stipulation, as OCC proposes, would be akin to a single party veto of the stipulation. The Commission has consistently determined that no single party, including OCC, is required to agree to a stipulation, in order to meet the first prong of the three-prong test. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 13-1571-GA-ALT, Opinion and Order (Feb. 19, 2014) at 10; *In re FirstEnergy*, Case No. 12-1230-EL-SSO, Opinion and Order (July 18, 2012) at 26, citing *Dominion Retail, Inc. v. The Dayton Power and Light Co.*, Case No. 03-2405-EL-CSS, et al., Opinion and Order (Feb. 2, 2005) at 18, Entry on Rehearing (Mar. 23, 2005) at 7-8. The Commission denies OCC's attempt to expand the three-part test to require the Stipulation to incorporate the majority of the issues raised in objections by any party. In this proceeding we have analyzed each of OCC's arguments presented as to the second criterion of the three part-test and ultimately concluded that the Stipulation, as a package, includes benefits for ratepayers and the public interest.

VII. COMMISSION'S DISCUSSION AND CONCLUSION

{¶ 71} Based on a review of the record in this matter, the Commission finds that the Stipulation complies with the three-part test. As discussed above, the Stipulation is the product of serious bargaining among capable, knowledgeable parties. All parties participated in negotiations and were represented by experienced counsel and technical experts familiar with the issues in this matter. Therefore, we conclude that the Stipulation meets the first criterion of the three part test. (Joint Ex. 1 at 1; Columbia Ex. 5 at 3-4; OCC Ex. 1 at 22-23; Staff Br. at 5-6.)

{¶ 72} The record also supports a finding that the Stipulation, as a package, benefits ratepayers and the public interest. The AMRP facilitates the replacement of priority pipe which reduces leaks, customer outages as a result of leaks, and the efficient replacement of non-priority pipe, which improves public safety. Through the HCSL, Columbia continues to take responsibility for the maintenance, repair, and replacement of service lines, relieving customers of the associated burden and the possibility of below standard service line repairs. The Commission continues to find the HCSL program beneficial for the protection of Columbia's customers, their property, and the property of their neighbors, as well as the public interest. It is important to note that the projected total cost of Columbia's IRP will be aligned with actual costs in the annual review of Rider IRP and aspects of the IRP reviewed and evaluated. (Columbia Ex. 5 at 4-5.) Further, the Commission finds the application, as modified by the Stipulation and this Opinion and Order, resolves the issues presented in a reasonable manner and does not violate any important regulatory principle or practice (Columbia Ex. 5 at 6). For these reasons, the Commission concludes the Stipulation satisfies the three-part test, is reasonable as modified by this Opinion and Order, and should be adopted.

{¶ 73} Finally, as this application and Stipulation were filed prior to the enactment of recent federal tax legislation, the Commission reminds Columbia that we recently directed all utilities, pursuant to R.C. 4905.13, to record on their books as a deferred liability, the estimated reduction in federal income taxes resulting from the Tax Cuts and Jobs Act of 2017, until otherwise ordered by the Commission. *In the Matter of the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Entry (Jan. 10, 2018).

VIII. Findings Of Fact And Conclusions Of Law

{¶ 74} Columbia is a natural gas company, as defined in R.C. 4905.03, and a public utility, as defined in R.C. 4905.02. As such, Columbia is subject to the jurisdiction of the Commission.

{¶ 75} On February 27, 2017, Columbia filed an application pursuant to R.C. 4929.05, 4929.051(B), 4929.11, and 4909.18, seeking approval to continue its IRP and the associated cost recovery mechanism, for another five-year term, January 1, 2018, through December 31, 2022, with one modification.

{¶ 76} By Entry issued on April 6, 2017, as amended on August 8, 2017, and August 11, 2017, the procedural schedule was established.

{¶ 77} By Entry issued on April 21, 2017, the motions to intervene filed by IEU, OCC, and OPAE were granted.

{¶ 78} On August 18, 2017, a Stipulation was filed by Columbia, Staff, and OPAE resolving all of the issues raised in this case. While IEU is not a signatory party to the Stipulation, IEU did not oppose the Stipulation.

{¶ 79} An evidentiary hearing on the Stipulation was held on October 2, 2017.

{¶ 80} The Stipulation meets the criteria used by the Commission to evaluate stipulations, is a reasonable resolution of the issues, and should be adopted, as modified by this Opinion and Order.

IX. ORDER

{¶ 81} It is, therefore,

{¶ 82} ORDERED, That the Stipulation filed by Columbia, Staff, and OPAE on August 18, 2017, be adopted and approved, as modified by this Opinion and Order. It is, further,

{¶ 83} 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,

{¶ 84} ORDERED, That a copy of this Opinion and Order be served upon all persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Asim Z. Haque, Chairman

M. Beth Trombold

Thomas W. Johnson

Lawrence K. Friedeman

Daniel R. Conway

GNS/mef

JAN 3 1 2018

Entered in the Journal

Barcy F. McNeal

Secretary