

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Columbia)
Gas of Ohio, Inc. for Approval of an) Case No. 17-2202-GA-ALT
Alternative Form of Regulation.)

**OBJECTIONS TO THE STAFF REPORT AND
COLUMBIA GAS OF OHIO, INC.'S AMENDED APPLICATION
SUBMITTED BY
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

I. Introduction

On December 1, 2017, Columbia Gas of Ohio, Inc. (Columbia) filed an Application for Authority to Implement a New Alternative Rate Plan to Establish a Capital Expenditure Program Rider (CEP Rider) with the Public Utilities Commission of Ohio (Commission).¹ On March 19, 2018, Staff of the Commission (Staff) filed a letter, which stated that Columbia's Application was an application for an increase in rates pursuant to R.C. 4909.18 and therefore was required to comply with the requirements of that statute as well as the standard filing requirements contained in Ohio Adm. Code 4901-7-01.² Subsequent to that determination by Staff, Columbia filed an Amended Application on April 2, 2018³ and supplemented the Amended Application on April 16, 2018.⁴ The Commission selected Blue Ridge Consulting Services, Inc. (Blue Ridge) to perform an audit related to Columbia's Amended Application.⁵ Blue Ridge filed its audit report on September 4, 2018.⁶ The Staff of the Commission (Staff) filed its Staff Report of

¹ See Application of Columbia Gas of Ohio, Inc. (December 1, 2017).

² See Correspondence to Columbia Gas from T. Turkenton (March 19, 2018).

³ See Amended Application for Approval of an Alternative Form of Regulation (April 2, 2018).

⁴ See Correspondence and Supplemental Exhibit H to Amended Application (April 16, 2018).

⁵ Entry at ¶ 21(May 9, 2018).

⁶ See Prudence Audit of Plant in Service and Capital Expenditure Program Spending for Columbia Gas of Ohio, Inc. (September 4, 2018).

Investigation (Staff Report) in the above-captioned proceeding on September 14, 2018.⁷

The Ohio Manufacturers' Association Energy Group (OMAEG) filed a motion to intervene in this case on March 23, 2018.⁸ Pursuant to R.C. 4909.19, and Ohio Adm. Code 4901-1-28 and 4901:1-19-07, OMAEG hereby respectfully submits its objections to the Staff Report and its objections to Columbia's Amended Application. OMAEG reserves the right to supplement or modify these objections in the event that Staff makes additional findings, conclusions, or recommendations with respect to the Staff Report. OMAEG also reserves the right to respond—either in support or opposition—to objections or other issues raised by other parties in these proceedings.

II. Objections to the Staff Report

A. The Staff Report Does Not Include All Impacts Resulting from the Tax Cuts and Jobs Act of 2017, Which Is Unjust and Unreasonable.

On December 20, 2017, the United States Congress enacted the *Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018*, also known as the Tax Cuts and Jobs Act (TCJA).⁹ Among other changes to federal tax law, the TCJA reduced the federal corporate income tax rate from 35% to 21%, thus significantly reducing Columbia's federal tax expense for regulatory purposes.¹⁰ The Commission opened a proceeding, Case No. 18-47-AU-COI, to consider the effects of the TCJA and to determine how best to pass its benefits to Ohio's customers of rate-regulated utilities.¹¹

⁷ Staff Report (September 14, 2018).

⁸ See Motion to Intervene of the Ohio Manufacturers' Association Energy Group (March 23, 2018).

⁹ PL 115-97.

¹⁰ *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 Customers* (Commission Tax COI), Entry at ¶ 2 (January 10, 2018).

¹¹ *Id.* at ¶ 3.

Columbia filed comments¹² and reply comments¹³ in that proceeding. In its Comments, Columbia stated that the above-captioned proceeding was the appropriate place to address the implementation of the TCJA to the benefit of Columbia's customers.¹⁴

Despite Columbia's pledge that this case would result in customers receiving the full benefits of the TCJA, the Staff Report fails to recommend providing customers with those benefits. The Staff Report appropriately recognizes that Columbia needs to decrease its pre-tax rate of return in light of the TCJA, but that appears to be the only piece of the relief to which customers are entitled as a result of the TCJA. The Commission ordered all rate-regulated utilities to record their tax savings resulting from the TCJA as a deferred liability on their books, beginning January 1, 2018, so that those savings could ultimately be passed back to customers.¹⁵ The Staff Report does not make any mention of a process by which that process would occur or how and when other adjustments to base rates would be incorporated as a result of the TCJA.

Columbia cannot be permitted to have it both ways. It cannot claim in the Commission's Tax COI that the COI is an inappropriate method of addressing the impacts of the TCJA (and that this proceeding would be more appropriate for addressing such impacts with regard to Columbia), and then in this proceeding not fully address those same impacts. The Staff Report proposes subjecting Columbia's customers to a new CEP Rider without fully implementing the TCJA into rates so that customers receive the benefits of the new law, even though Columbia has stated that such implementation would occur in this proceeding. Staff should have recommended

¹² See *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 (Commission Tax COI), Comments of Columbia Gas of Ohio (February 15, 2018).

¹³ See Commission Tax COI, Reply Comments of Columbia Gas of Ohio (March 7, 2018).

¹⁴ Commission Tax COI, Comments of Columbia Gas of Ohio at 3.

¹⁵ See Commission Tax COI, Entry (January 10, 2018).

full TCJA implementation as part of its assessment of this case. Such failure is unjust and unreasonable.

B. The Staff Report Recommends a Rate of Return that Is Unjust and Unreasonable.

Although Staff properly recognized the necessity to adjust the proposed revenue requirement calculations that incorporate a return on net CEP investment downward to account for recent changes in federal tax law,¹⁶ Staff failed to further adjust Columbia's pre-tax rate of return in order to account for Columbia's reduced risk associated with being a distribution utility that receives guaranteed cost recovery through base rates and non-bypassable riders that it charges to customers, such as the CEP Rider. The proposed CEP Rider is akin to the distribution investment riders that the Commission has considered in proceedings involving other Ohio distribution utilities wherein Staff and the Commission have recognized the reduced risk to distribution utilities associated with receiving timely recovery for distribution investments. The Staff Report fails to account for the fact that Columbia, as a gas distribution utility, will receive timely, dollar-for-dollar tax recovery from customers for its investments and, therefore, has little, if any, risk. The substantial risk mitigation that the CEP rider provides obviates the need for the Commission to adopt the excessive rate of return that Staff recommends.

Through the proposed CEP Rider, Columbia would receive timely cost recovery for its investments. In addition to the risk mitigation that this cost recovery provides, it further reduces the need for Columbia to collect an excessive rate of return from its customers. The Staff Report failed to account for these realities that provide context for this proceeding and, in doing so, recommended a rate of return of 9.52% that is unjust and unreasonable.

¹⁶ Staff Report at 6, 8.

C. The Staff Report Unjustly and Unreasonably Failed to Recommend Specific Revenue Caps on the CEP Rider and Limit its Duration.

The Staff Report should have recommended revenue caps on the CEP Rider. Staff recognized the need for cost caps on the level of the CEP Rider, stating that “Staff recommends that Columbia work with Staff to identify reasonable and meaningful annual caps (spending, revenue requirement, rate, etc.) in order to keep costs under control and ensure rate payers are not burdened with excessive and unnecessary plant investments.”¹⁷ The Staff Report, with the benefit of reviewing the Blue Ridge report and the materials and data filed by Columbia, should have recommended specific, reasonable, and meaningful caps. The best way to protect customers from “excessive and unnecessary plant investments” is to impose revenue caps based on meaningful data that is independently evaluated by Staff. Those cost caps would protect customers from being forced to foot the bill for any unnecessary or excessive investments.

The cost caps recommended by Staff should be reasonable so that they provide a meaningful check on overspending, rather than illusory caps that, in effect, permit Columbia to spend in excess of amounts that are necessary without meeting the approved level of cost caps. If Staff is intent on recommending that customers should be subjected to the CEP Rider, it must provide customers with protections to ensure that Columbia does not abuse that Rider to overcharge customers for unnecessary investments.

Similarly, Staff should have recommended a sunset provision on the duration of the CEP Rider. Customers should not be subjected to a never-ending rider, especially if Staff, as discussed below, does not recommend requiring Columbia to file a base distribution rate case. Columbia’s CEP Rider, if implemented, should expire at a defined date in the future. After such a date, if Columbia wishes to continue charging customers under a CEP Rider, Staff should

¹⁷ Staff Report at 7.

recommend that Columbia return to the Commission and justify the continued necessity of the CEP Rider. Staff should have also recommended that the CEP Rider sunset upon the filing of a distribution rate case application within a prescribed period. Staff's failure to recommend specific annual revenue caps and a specific sunset provision for the CEP Rider is unjust and unreasonable.

D. The Staff Report Unjustly and Unreasonably Failed to Require Columbia to File a Base Rate Case to Examine Columbia's Complete Financials.

Ohio law and the Commission's rules provide a process by which a utility can collect additional revenue from customers in the event that it is not collecting sufficient revenue through distribution rates and riders (i.e., file a distribution base rate case).¹⁸ In a rate case, the utility opens up its books to Staff and interested stakeholders and the Commission determines appropriate levels to be collected from customers. Importantly, that assessment is made in the context of the totality of the utility's financials so that customers are not subjected to increased charges in areas where the utility is found to currently be under-collecting without receiving relief in the event that the utility over-collects elsewhere.

Here, Columbia submits that the establishment of a CEP Rider is necessary so that Columbia may recover post-in-service carrying costs, incremental depreciation expense, and property tax expense currently deferred pursuant to Columbia's capital expenditure program deferral. The merits of that contention is proposed to be determined in this proceeding, but if Columbia is seeking to increase its collection of costs from customers, customers should be assured that such an increase does not accentuate any over-collection to which Columbia may already be subjecting customers. Staff has the ability to make the determination that all rates and charges charged to customers are just and reasonable, and it should recommend that the

¹⁸ See R.C. 4909.18.

Commission require Columbia to engage in the rate case process rather than the selective implementation of the CEP Rider.

Alternatively, as explained above, Staff should have recommended that the CEP Rider sunset upon the filing of a distribution base rate case application, which would be filed within a specific period of time. Staff should have recommended that a base rate case application be filed no later than December 31, 2020, so that all rates and charges, including the CEP Rider, assessed to customers could be evaluated to determine their reasonableness.

E. The Staff Report Recommends an Excessive Charge Under the CEP Rider.

The Staff Report recommends approving a new, excessive charge to customers under the CEP Rider. Although the proposed charge in the Staff Report is less than the amount proposed in the Amended Application,¹⁹ it still imposes a new financial burden on customers. This new monthly impact to customers does not appear to be tied specifically to any benefits to customers or improvements in service. The Staff Report contains a number of recommendations, including that Columbia work with Staff to better identify expenses vs. capitalized costs associated with the relocation of meters,²⁰ that Columbia perform a new depreciation study prior to the Columbia's next rate case,²¹ that Columbia provide non-IRP gross plant and reserve depreciation balances by FERC account,²² Columbia work with Staff to identify reasonable and meaningful caps to keep costs under control,²³ and that Columbia work with Staff to identify the date of its next rate case application.²⁴ Columbia should not be permitted to begin charging customers

¹⁹ See Staff Report at 9.

²⁰ Staff Report at 7.

²¹ Id.

²² Id.

²³ Id.

²⁴ Id. at 9.

under the CEP Rider when Staff is still recommending that Columbia provide certain data. Additionally, Staff should not have recommended that the CEP Rider be implemented unless and until Columbia establishes meaningful caps and implements procedures to keep costs under control as suggested by Staff. Staff should require Columbia to implement proper procedures to control its own costs *before* it starts to collect from customers, not after. Staff's recommendation of an excessive charge without the benefit of completing a base rate case, without the implementation of revenue caps, and without "ensur[ing] rate payers are not burdened with excessive and unnecessary plant investments" is unjust and unreasonable.

III. Objections to Columbia's Amended Application

A. Columbia's Amended Application Improperly Fails to Fully Address the Impacts of the TCJA, Which is Unjust and Unreasonable.

As discussed above, Columbia stated in the Commission's investigation into the impacts of the TCJA on rate-regulated utilities that the Commission investigation was an inappropriate method to address the changes to federal tax law created by the TCJA.²⁵ Instead, Columbia suggested that it pass tax relief onto its customers through this proceeding.²⁶ Columbia acknowledges in its Amended Application that its pre-tax rate of return will need to be adjusted due to the tax reform and it states it will incorporate that element and others due to the tax reform in this proceeding, but states only that it will "work with the parties in this case to do so."²⁷ Given Columbia's stated intent for the need to address federal tax reform in this proceeding, it should have addressed the implementation of the tax reform in its application, rather than leaving it to litigation or settlement negotiations with the other parties to this case and shifting the burden on the parties to extract concessions from Columbia as part of a broader negotiation.

²⁵ Commission Tax COI, Comments of Columbia Gas of Ohio at 3.

²⁶ Id.

²⁷ Amended Application at 5.

Specifically, Columbia should have affirmatively proposed passing all tax savings back to customers, as it said that it would do in the Commission investigation into the effects of the TCJA.

B. Columbia's Amended Application Fails to Properly Adjust the Depreciation Expense to Account for Assets Included in the Rate Base Which Are Now Being Retired.

As pointed out in the Staff Report,²⁸ Columbia's Amended Application fails to reduce the rates charged to customers to account for assets that are retired but still included in Columbia's depreciation expense. Customers should only be charged for costs that Columbia is actually incurring. Staff correctly notes that as the depreciation expense of the plant additions are either being deferred for future recovery or will be recovered through the CEP Rider, the depreciation expense imbedded in current base rates is recovering plant that is no longer in service. Thus, Columbia should have recognized a depreciation offset in its Amended Application.

C. Rather than Seeking Isolated Cost Recovery Through the CEP Rider, Columbia Should File a Distribution Rate Case.

Columbia's Amended Application proposes the CEP Rider to recover certain categories of capital expenditures.²⁹ If Columbia feels that it is insufficiently recovering its capital expenditures in this case, the Amended Application is not the best way to address that issue. Rather, Columbia should file a distribution rate case. In a base rate case, Columbia would open its books to allow for a review and determination of whether or not it needs to collect more from customers that is based on all of its financials rather than an isolated subset of expenditures that it is choosing to highlight in this proceeding. A base rate case would ensure that customers are not unfairly being charged for excessive rates. All expenses and revenues would be considered

²⁸ Staff Report at 8.

²⁹ See Amended Application at 2-3.

so that customers' charges are not increased for capital expenditures (under the CEP Rider) without also considering the revenues received by Columbia. That way, the Commission can make a reasoned determination as to whether or not Columbia's total rates are insufficient for the Company to make necessary investments and whether Columbia is over-collecting in other areas.

D. Columbia's Amended Application Proposes Unreasonable Charges Under the CEP Rider.

Columbia's Amended Application proposes excessive charges to customers under the proposed CEP Rider. Columbia proposes to phase-in the CEP Rider by adjusting it upward every two years until the fixed monthly charge is as high as \$882.40 for the Large General Service Class in 2022.³⁰ The information provided by Columbia as part of its Amended Application does not support this charge to customers. Accordingly, Columbia's proposed CEP Rider rates are unjust and unreasonable.

E. Columbia's Amended Application Unreasonably Fails to Propose Meaningful Revenue Caps on the CEP Rider and Fails to Limit its Duration.

Revenue caps help to protect customers against unknown and unreasonable charges by limiting the amount that utilities can collect from customers. This forces the utility to selectively implement projects in hopes that the utility only makes necessary distribution investments in a cost-effective manner. The CEP Rider as proposed by Columbia does not have any meaningful revenue or spending caps on the collection of costs from customers. Columbia's proposal should have included annual caps that are low enough to meaningfully limit the capital expenditures Columbia proposes to recover in order to protect customers. Moreover, the Amended Application should have proposed an end date or expiration of the CEP Rider. Assuming, *arguendo*, that the Commission deems a CEP Rider to be necessary at this time, the Amended

³⁰ See Amended Application, Exhibit K.

Application should have proposed a date upon which the CEP Rider would expire so that customers are not subjected to an endless charge. If, upon the CEP Rider's expiration, Columbia still believed the CEP Rider to be necessary, it could initiate a subsequent proceeding to demonstrate its need to the Commission. That way, customers are protected from being subjected to a rider that never expires and Columbia is not prohibited from continuing collection under the rider if it is able to demonstrate a need to do so.

Additionally, Columbia should have recommended that the CEP Rider sunset upon the filing of a distribution base rate case application, which would be filed within a specific period of time. Columbia also should have committed to a date by which it would file its next distribution rate case.

F. Columbia's Amended Application Proposes an Unreasonable Rate of Return.

Columbia's Amended Application proposes an embedded rate of return that is excessive given Columbia's status as a distribution utility and the nature of the CEP Rider. The CEP Rider, along with other riders for which Columbia charges customers, guarantee Columbia timely, dollar-for-dollar cost recovery for its investments. As such, Columbia's financial risk as a gas distribution utility with guaranteed and timely cost recovery is minimal.

The concern with Columbia's proposed rate of return embedded in the CEP Rider are magnified by the fact that Columbia's Amended Application does not even account for the changes in tax law created by the TCJA. Columbia's statement that it wants to work with the parties to this case to address the tax changes is insufficient. As such, the Commission should reject any proposed rate of return that does not fully account for changes in federal tax law. Columbia's embedded rate of return is unjust and unreasonable and should be adjusted downward.

IV. Conclusion

OMAEG submits these objections to the Staff Report and to Columbia's Amended Application in this matter and looks forward to a full discussion of these issues presented herein with Staff, Columbia, and other stakeholders as this proceeding progresses.

Respectfully submitted,

/s/ Kimberly W. Bojko

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon all parties of record via electronic mail on October 15, 2018.

/s/ Kimberly W. Bojko
Kimberly W. Bojko

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Summary: Objection Objections To The Staff Report And Columbia Gas Of Ohio, Inc.'s Amended Application Submitted By The Ohio Manufacturers' Association Energy Group electronically filed by Mrs. Kimberly W. Bojko on behalf of OMA Energy Group