

# 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 ESTABLISH A  
CAPITAL EXPENDITURE PROGRAM RIDER  
MECHANISM.

CASE NO. 17-2202-GA-ALT

## ENTRY

Entered in the Journal on October 30, 2018

{¶ 1} Columbia Gas of Ohio, Inc. (Columbia) is a natural gas company and a public utility as defined by R.C. 4905.03 and R.C. 4905.02, respectively. As such, Columbia is subject to the jurisdiction of this Commission.

{¶ 2} Under R.C. 4929.05, a natural gas company may seek approval of an alternative rate plan by filing an application under R.C. 4909.18, regardless of whether the application is for an increase in rates. After an investigation, the Commission shall approve the plan if the natural gas company demonstrates, and the Commission finds, that the company is in compliance with R.C. 4905.35, is in substantial compliance with the policy of the state as set forth in R.C. 4929.02, and is expected to continue to be in substantial compliance with that state policy after implementation of the alternative rate plan. The Commission must also find that the alternative rate plan is just and reasonable.

{¶ 3} Pursuant to R.C. 4929.111, a natural gas company may file an application under R.C. 4909.18, 4929.05, or 4929.11 to implement a capital expenditure program (CEP) for any of the following: any infrastructure expansion, infrastructure improvement, or infrastructure replacement program; any program to install, upgrade, or replace information technology systems; or any program reasonably necessary to comply with any rules, regulations, or orders of the Commission or other governmental entity having jurisdiction. In approving the application, the Commission shall authorize the natural gas company to defer or recover both of the following: a regulatory asset for post-in-service carrying costs (PISCC) on the portion of the assets of the CEP that are placed in service but

not reflected in rates as plant in service; and a regulatory asset for the incremental depreciation directly attributable to the CEP and the property tax expense directly attributable to the CEP but not reflected in rates. A natural gas company shall not request recovery of the PISCC, depreciation, or property tax expense under R.C. 4929.05 or R.C. 4929.11 more than once each calendar year.

{¶ 4} In Case No. 11-5351-GA-UNC, et al., the Commission modified and approved Columbia's application to implement a CEP for the period of October 1, 2011, through December 31, 2012, pursuant to R.C. 4909.18 and 4929.111. The Commission also approved Columbia's request to modify its accounting procedures to provide for the capitalization of PISCC on assets of the CEP placed into service but not reflected in rates as plant in service, as well as deferral of depreciation expense and property taxes directly attributable to those assets of the CEP that are placed into service but not reflected in rates as plant in service. Further, the Commission noted that the prudence and reasonableness of Columbia's CEP related regulatory assets and associated capital spending would be considered in any future proceedings seeking cost recovery, at which time Columbia would be expected to provide detailed information regarding the expenditures for Commission review. *In re Columbia Gas of Ohio, Inc.*, Case No. 11-5351-GA-UNC, et al., Finding and Order (Aug. 29, 2012), Entry on Rehearing (Oct. 24, 2012) (*CEP Order*).

{¶ 5} In Case No. 12-3221-GA-UNC, et al., the Commission modified and approved Columbia's application to continue its CEP, including deferral of the related PISCC, depreciation expense, and property tax expense, in 2013 and succeeding years until such deferral, if included in rates, would cause the rates charged to Small General Service customers to increase by more than \$1.50 per month, as established in the *CEP Order*. *In re Columbia Gas of Ohio, Inc.*, Case No 12-3221-GA-UNC, et al., Finding and Order (Oct. 9, 2013).

{¶ 6} On December 1, 2017, Columbia filed an alternative rate plan application, along with supporting exhibits and testimony, pursuant to R.C. 4929.05, 4929.051(A), 4929.11, and 4929.111. The application seeks to establish a new rider mechanism to recover

CEP costs (CEP Rider). Specifically, Columbia states that the purpose of the proposed CEP Rider is to recover the PISCC, incremental depreciation expense, and property tax expense deferred under the CEP, as well as the corresponding assets to which these expenses are directly attributable. However, by letter issued March 19, 2018, Staff notified Columbia that its application is for an increase in rates and, as such, additional information must be filed unless waived.

{¶ 7} On April 2, 2018, as supplemented on April 16, 2018, Columbia filed its amended application for an alternative rate plan to establish a CEP Rider along with amended testimony pursuant to R.C. 4929.111, 4929.05, and 4909.18. Simultaneously, Columbia filed a motion for waivers and notice of test year and date certain.

{¶ 8} By Entry issued May 16, 2018, the Commission granted Columbia's motion for waivers contingent upon Columbia responding to any formal information requests from Staff within five business days, even if the information requested was the subject of a waiver.

{¶ 9} On May 17, 2018, Staff filed a letter stating that Columbia's amended application, as supplemented, is in compliance with Ohio Adm.Code 4901:1-19-06. Accordingly, by Entry dated May 29, 2018, the application was deemed to have been filed as of April 2, 2018.

{¶ 10} On September 4, 2018, Blue Ridge Consulting Services, Inc., which was selected by the Commission to audit Columbia's CEP, filed its audit report.

{¶ 11} On September 14, 2018, Staff filed its report of investigation (Staff Report), pursuant to Ohio Adm.Code 4901:1-19-07(C).

{¶ 12} To assist the Commission with its review of Columbia's CEP application, by Entry issued September 19, 2018, a procedural schedule was established such that motions to intervene were due by September 14, 2018, objections were due by October 15, 2018, expert testimony was due by October 29, 2018, and the hearing was scheduled to commence

on November 6, 2018. Further, the Entry directed that any memorandum contra any motion filed in this case be due within five business days and any reply memorandum be due within three business days. In addition, the September 19, 2018 Entry directed that the response time for discovery would be shortened to seven calendar days.

{¶ 13} Timely motions to intervene were filed by Industrial Energy Users-Ohio (IEU), Ohio Partners for Affordable Energy (OPAE), Ohio Energy Group (OEG), Ohio Consumers' Counsel (OCC), The Kroger Company (Kroger), and Ohio Manufacturers' Association Energy Group (OMAEG). No memoranda contra were filed. The attorney examiner finds the motions to intervene filed by IEU, OPAE, OEG, OCC, Kroger, and OMAEG set forth reasonable grounds for intervention and, therefore, the motions to intervene should be granted.

{¶ 14} On September 24, 2018, Retail Energy Supply Association (RESA) and Interstate Gas Supply, Inc. (IGS) filed motions to intervene. RESA and IGS each claim a real and substantial interest in this proceeding that is not adequately represented by existing parties; each also contends that it will positively contribute to a just and expeditious resolution of the issues presented and that permitting intervention will not unduly delay the proceeding.

{¶ 15} On October 1, 2018, Columbia and OCC filed a joint memorandum contra the motions to intervene filed by RESA and IGS. Columbia and OCC submit that RESA and IGS have failed to show a real or substantial interest in this proceeding, to demonstrate that intervention is necessary to protect such interests, and to indicate that they would significantly contribute to resolving the factual issues involved. Instead, Columbia and OCC insist that the issues raised by RESA and IGS are better raised in Columbia's next base distribution rate case.

{¶ 16} In replies filed October 4, 2018, RESA and IGS each dispute Columbia's characterization of their interests and rationales for intervention. RESA points out that

Columbia's application proposes to recover not only past costs, but also seeks to establish future and new deferrals, and raises the issues of whether post-2017 CEP expenditures and costs should be deferred and whether there should be future CEP audits. These issues, RESA states, are pertinent to competitive retail natural gas service providers, many of whom are RESA members. Similarly, IGS submits that its motion clearly indicates how Columbia's application and related expenditures raise concerns about cross-subsidies between Choice customers and distribution rates, concerns that are made relevant to the proceeding by the Commission's own filing requirements. Specifically, IGS points to Ohio Adm.Code 4901:1-19-06(C)(4), which indicates that an applicant for an alternative rate plan must provide a detailed discussion of how potential issues concerning cross-subsidization of services have been addressed in the plan.

{¶ 17} The attorney examiner acknowledges Columbia's and OCC's arguments against permitting IGS and RESA to intervene in this matter. Ultimately, however, the factors in favor of intervention outweigh the factors against it. RESA and IGS have demonstrated an interest in this proceeding that, arguably, is not adequately represented by other participating parties and have otherwise met the requirements of R.C. 4903.221 and Ohio Adm.Code 4901-1-11; as such, intervention is to be liberally granted. *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, 856 N.E.2d 4940, ¶ 20. Accordingly, the attorney examiner finds that the motions to intervene filed by IGS and RESA should be granted.

{¶ 18} On October 15, 2018, objections to Columbia's application, the audit report and/or the Staff Report were filed by IEU, OP&E, IGS, Columbia, RESA, OEG, Kroger, OCC, and OMAEG.

{¶ 19} Columbia filed the supplemental testimony of Diana M. Beil on October 22, 2018.

{¶ 20} On October 25, 2018, Columbia, Staff, OCC, OPAE, IEU, OEG, OMAEG, Kroger, and IGS filed a Stipulation and Recommendation (Stipulation) to resolve all the issues in this proceeding.

{¶ 21} On October 26, 2018, RESA filed a motion to vacate the procedural schedule and establish a new procedural schedule, and a request for expedited ruling. However, RESA is not able to certify that no party objects to the motion pursuant to Ohio Adm.Code 4901-1-12. RESA states that, in addition to new proposed terms for recovery of the historic CEP costs and expenses via a new rider, the Stipulation includes new issues and matters for the consideration of all parties and the Commission. According to RESA, the Stipulation includes rates and terms for the collection of future CEP costs and expenses, terms for adjusting Columbia's distribution rates to reflect the impact of the Tax Cuts and Jobs Act of 2017, provisions for information technology programs related to large commercial and industrial Choice customers, and proposed details for a future base rate case filing. RESA states it will address these and other issues at the hearing in this proceeding and requests that the procedural schedule be revised to permit parties time to address the Stipulation. Accordingly, RESA requests that the procedural schedule be revised as follows:

- (a) Testimony in support of the Stipulation be due by November 2, 2018;
- (b) Staff testimony responding to the objections to the Staff Report be due by November 9, 2018;
- (c) Discovery responses be due seven days after service of the discovery request;<sup>1</sup>
- (d) Testimony in opposition to the Stipulation be due by December 21, 2018; and
- (e) The hearing be rescheduled to commence on January 10, 2019.

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<sup>1</sup> As noted above, pursuant to the Entry issued September 19, 2018, the time to respond to discovery request was abbreviated to seven calendar days.

{¶ 22} On October 29, 2018, Columbia filed a memorandum contra RESA's motion to vacate the procedural schedule. Columbia states that RESA attended and participated in the negotiations leading to the Stipulation and has had adequate opportunity to prepare and revise its testimony and to conduct any needed discovery. Further, Columbia avers that RESA has failed to demonstrate good cause for an extension of time to file its testimony or to delay the procedural schedule as requested. According to Columbia, RESA's interest in this proceeding relates to information technology upgrades to Columbia's billing and gas scheduling systems, which is not the type of capital expense that would be recovered via the CEP Rider. Columbia reasons that RESA's motion is unreasonable, unjustified, and prejudicial.

{¶ 23} On October 29, 2018, Columbia also filed a motion to strike the objections to the Staff Report filed by RESA. Columbia acknowledges that several parties filed objections to the Staff Report. However, Columbia asserts RESA's seven objections are unrelated to Columbia's amended application; are vague to the point that it is unclear as to the relief RESA is seeking; or, more precisely, constitute an objection to the statutes, regulations, and process by which a natural gas company may file for approval of an alternative rate plan.

{¶ 24} On October 29, 2018, Columbia and OCC filed testimony in support of the Stipulation.

{¶ 25} The attorney examiner finds RESA's request to revise the procedural schedule should be denied, in part, and granted, in part. RESA has not demonstrated just cause for such an extended delay of the procedural schedule, particularly where RESA has been actively involved and aware of the schedule and participated in the negotiations leading to the Stipulation. Nonetheless, the procedural schedule shall be revised to afford RESA a brief extension of time to file testimony in opposition to the Stipulation. RESA's testimony shall be filed by November 2, 2018. The remainder of the procedural schedule, as established in the September 19, 2018 Entry, will remain unchanged.

{¶ 26} It is, therefore,

{¶ 27} ORDERED, That the motions to intervene filed by IEU, OP&E, IGS, RESA, OEG, Kroger, OCC, and OMAEG be granted. It is, further,

{¶ 28} ORDERED, That RESA's motion to vacate the procedural schedule be denied, in part, and granted, in part. It is, further,

{¶ 29} ORDERED, That the procedural schedule be revised as set forth in Paragraph 25. It is, further,

{¶ 30} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Greta See

By: Greta See  
Attorney Examiner

JRJ/hac



**This foregoing document was electronically filed with the Public Utilities**

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Summary: Attorney Examiner Entry granting motions to intervene and revising procedural schedule electronically filed by Heather A Chilcote on behalf of Greta See, Attorney Examiner, Public Utilities Commission