

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Annual Application :
of Columbia Gas of Ohio, Inc. for an : Case No. 18-1701-GA-RDR
Adjustment to Rider IRP and Rider DSM :
Rates. :

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

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INTRODUCTION

This case concerns the annual adjustments to two riders in the rate schedules of Columbia Gas of Ohio (Company or Columbia): the Infrastructure Replacement Program Rider (Rider IRP) and the Demand-Side Management Rider (Rider DSM). The purpose is to review spending of funds collected under the riders and to determine whether the proposed adjustments are just and reasonable.

Columbia, the Public Utilities Commission of Ohio (Commission) staff (Staff), and Ohio Partners for Affordable Energy (OPAE) entered into a stipulation recommending that the Commission approve the rates proposed in Columbia's application (the Stipulation). Staff submits this brief to demonstrate that the Stipulation meets the Commission's test for consideration of stipulations and should be approved.

PROCEDURAL HISTORY

On April 9, 2008, the Commission approved an amended stipulation in Case Nos. 07-478-GA-UNC and 07-237-GA-AAM (Risers Stipulation) that included, among other things, the establishment of Rider IRP.¹ The purpose of the rider was to recover expenditures associated with the Company's three-year replacements of risers identified as "prone to fail" and customer service lines with potentially hazardous leaks. Under the Risers Stipulation approved and adopted by the Commission, the Company must file annual applications supporting proposed adjustments to its rates and the Staff was directed to review and report on the reasonableness of the proposed rates.

On July 23, 2008, the Commission approved Columbia's application in Case No. 08-833-GA-UNC to implement specific Demand-Side Management (DSM) programs for the Small General Service Class of customers that were developed by the stakeholder group in that case.² The approved programs for residential customers included the Home Performance Program, Low Cost Product Rebates, New Homes Program, Warm Choice®, and Furnace Market Research. Approved commercial programs included Small Business Energy Efficiency Incentives, Small Business Energy Saver Audits,

¹ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of Tariffs to Recover, Through an Automatic Adjustment Clause, Costs Associated with the Establishment of an Infrastructure Replacement Program and for Approval of Certain Accounting Treatment*, Case No. 07-478-GA-UNC (Opinion and Order) (April 9, 2008).

² *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of a Demand Side Management Program for Residential and Commercial Customers*, Case No. 08-833-GA-UNC (Finding and Order) (July 23, 2008).

Advanced Energy Design Partnership, and the Innovative Technology Program.

Additionally, the financing program includes an Energy Efficiency Loan Fund.

On March 3, 2008, Columbia filed Case Nos. 08-72-GA-AIR, 08-73-GA-ALT, 08-74-GA-AAM, and 08-75-GA-AAM seeking authority to increase its gas distribution rates, approval of an alternative regulation plan, approval to change accounting methods, and authority to revise its depreciation accrual rates. On December 3, 2008, the Commission approved a stipulation in the 08-72-GA-AIR et al. (Rate Case Stipulation) cases that, *inter alia*, expanded Rider IRP to include three separate components, established Rider DSM to allow Columbia to recover the costs for implementing the DSM programs approved in Case No. 08-833-GA-UNC, and established procedural schedules for annual applications to modify Riders IRP and DSM.³ The three components of Rider IRP are designed to allow Columbia recover of costs incurred during a test year to replace aging or hazardous infrastructure and include:

- 1) A component, set forth in Case Nos. 07-478-GA-UNC and 07-237-GA-AAM, for recovery of costs associated with the replacement of natural gas risers that are prone to failure along with the costs associated with the future maintenance, repair and replacement of customer service lines that have been determined by Columbia to present an existing or probable hazard to persons and property. Columbia was to identify and replace approximately 320,000 risers at an approximate cost of \$160 million over a period of approximately three years.
- 2) A second component for recovery of costs associated with the Company's Accelerated Mains Replacement Program (AMRP).

³ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Authority to Amend Filed Tariffs to Increase the Rates and Charges for Gas Distribution Service*, Case No. 08-72-GA-AIR et al. (Opinion and Order) (December 3, 2008).

Under the AMRP, Columbia's plans call for it to replace approximately 3,770 miles of bare steel pipe, 280 miles of cast iron/wrought iron pipe and approximately 360,000 steel service lines over a period of 25 years at an estimated annual cost of \$73 million. Columbia maintains that these types of mains (priority pipe) typically have a greater probability to leak due to their material type, protection, age and other characteristics.

- 3) The third component recovers costs associated with the Company's installation of Automatic Meter Reading Devices (AMRD) on all residential and commercial meters served by Columbia over approximately five years, which began in 2009.

On December 14, 2011, in Case No. 11-5028-GA-UNC, the Commission approved Columbia's application to initiate a shared savings mechanism for its DSM programs.⁴ With this shared savings mechanism, Columbia is able to earn a tiered incentive by properly managing its DSM program and meeting targeted levels of natural gas savings at a prorated budget cost level per annum.

The approved procedural schedule for annual applications to modify Riders IRP and DSM calls for the Company to submit a pre-filing notice containing schedules with a combination of actual and estimated data by November 30 each year followed by an application by February 28 of the succeeding year, that contains updated, actual schedules supporting rates to go into effect on May 1 of that year.

On January 31, 2018, the Commission approved a stipulation in Case No. 16-2422-GA-ALT that, among other things, called for continuation of the Infrastructure

⁴ *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of Demand-Side Management Programs for Its Residential and Commercial Customers*, Case No. 11-5028-GA-UNC (Finding and Order) (December 14, 2011).

Replacement Program (IRP) for an additional five years (for recovery of IRP investments made from January 1, 2018 through December 31, 2022), adjustment of the rate caps and guaranteed minimum levels of operations and maintenance (O&M) savings, and continuation of the filing requirements and schedules adopted in the 08-72-GA-AIR and 11-5515-GA-ALT cases.⁵

Pursuant to that schedule, on November 28, 2018, Columbia submitted a pre-filing notice in this case containing schedules with nine months of actual and three months of projected data in support of requested increases to Riders IRP and DSM to go into effect on May 1, 2019. On February 28, 2019, the Company filed its Application in this case with updated schedules containing actual data for calendar year 2018 and requesting that the test year for its application begin on January 1, 2018, and end on December 31, 2018, and a date certain for property valuation be set at December 31, 2018.

On March 8, 2019, the Attorney Examiner in this case issued an Entry establishing a procedural schedule for the case as follows:

- (a) March 22, 2019 – Deadline for filing of motions to intervene.
- (b) March 22, 2019 – Deadline for Staff and intervenors to file comments on the application.
- (c) March 28, 2019 – Deadline for Columbia to file a statement, informing the Commission whether the issues raised in the comments have been resolved.

⁵ *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) (January 31, 2018).

- (d) April 1, 2019 – Deadline for expert testimony by all parties.
- (e) April 2, 2019 – Deadline for some or all parties to the case to file a stipulation resolving some or all issues raised by the parties.
- (f) April 3, 2019 – Hearing date if some or all issues raised in the comments are not resolved.

Pursuant to this procedural schedule, motions to intervene were filed by the Office of the Ohio Consumers' Counsel (OCC), OPAE, and the Environmental Law & Policy Center (ELPC). All motions were granted at the hearing. Staff filed comments reflecting the findings of its investigation on March 22, 2019.⁶ ELPC also filed comments on that date.

The evidentiary hearing was held on April 3, 2019. Columbia presented testimony in support of its application and in support of the Stipulation. No other party presented testimony. At the conclusion of the hearing, the Attorney Examiners established a briefing schedule. This initial post-hearing brief is timely submitted on behalf of the Commission Staff.

⁶ Staff's comments were admitted into evidence at the hearing as Staff Exhibit 1.

ARGUMENT

I. Criteria for Review of Stipulations

Parties to proceedings before the Commission are permitted by Rule 4901-1-30 of the Ohio Administrative Code to enter into stipulations.⁷ Although the terms of such stipulations are not binding on the Commission, they are given substantial weight.⁸ In a number of prior proceedings, the Commission has addressed the standard of review for stipulations recommended by the parties.⁹ Essentially, the Commission considers whether the stipulation, which is the result of considerable time and effort by the parties, is reasonable and should be adopted. The Commission applies the following criteria, which have been endorsed by the Supreme Court of Ohio, in determining the reasonableness of a stipulation:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?

⁷ Ohio Adm.Code 4901-1-30(A) (“Any two or more parties may enter into a written or oral stipulation concerning issues of fact or the authenticity of documents.”).

⁸ *Consumers’ Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370, 1373 (1992) (“The commission, of course, is not bound to the terms of any stipulation; however, such terms are properly accorded substantial weight.” (quoting *Akron v. Pub. Util. Comm.* 55 Ohio St.3d 155, 157, 378 N.E. 2d 480, 483 (1978)); see also Ohio Adm.Code 4901-1-30(d) (“No stipulation shall be considered binding upon the commission”).

⁹ See, e.g., *In re Duke Energy Ohio*, Case No. 17-0032-EL-AIR, et al. (Opinion and Order) (Dec. 19, 2018); *In re Columbia Gas of Ohio*, Case No. 16-1309-GA-UNC (Opinion and Order) (Dec. 16, 2016).

- (3) Does the settlement package violate any important regulatory principle or practice?¹⁰

The Stipulation, as recommended by the signatory parties, complies fully with the Commission's three-part test and should therefore be adopted by the Commission.

A. The Stipulation is a product of serious bargaining among capable, knowledgeable parties.

The Stipulation was signed by Columbia, the Commission Staff, and OPAE (an advocate for low-income customers). The settling parties thus include a diverse array of interests. All of the signatory parties regularly participate in Commission proceedings, and all were represented by experienced and competent counsel. Columbia witness Thompson explained that the settlement is the product of an open process in which all parties participated.¹¹ All parties met at a settlement conference at which the terms were agreed to.¹² The Stipulation therefore is the product of serious bargaining among capable and knowledgeable parties.

B. The Stipulation, as a package, benefits ratepayers and the public interest.

The Stipulation benefits ratepayers and the public interest in several ways. As explained by Columbia witness Thompson, the Stipulation promotes safety and reliability by recommending adoption of rider rates that will continue funding for Columbia's IRP

¹⁰ *Indus. Energy Consumers of Ohio v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 561, 629 N.E.2d 423, 426 (1994).

¹¹ Columbia Ex. 8 (Supplemental Direct Testimony of Melissa S. Thompson) at 2.

¹² *Id.*

and its DSM Programs.¹³ The IRP improves safety and reliability by replacing lines at high risk of developing leaks.¹⁴ The DSM also provides energy savings to residential and small commercial customers.¹⁵

The Stipulation will have a positive financial impact on customers. It provides for a reduction of the Rider DSM rate.¹⁶ Rider IRP, as recommended in the Stipulation, will incorporate the return of tax savings associated with the reduced federal tax rate.¹⁷

Considering all these benefits, it is apparent that the settlement package benefits ratepayers and the public interest. This element of the Commission's test is thus satisfied.

C. The Stipulation does not violate any important regulatory principle or practice.

Ms. Thompson explained that the Stipulation does not violate any important regulatory principle or practice and that it is consistent with prior Commission orders.¹⁸ She further explained that the Stipulation is consistent with the state policy to promote the availability of adequate, reliable, and reasonably priced natural gas services and goods.¹⁹ Finally, the Staff has investigated the proposed adjustments to the rider rates

¹³ *Id.* at 3.

¹⁴ *Id.*

¹⁵ *Id.* at 4.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 5.

¹⁹ *Id.* at 20; R.C. 4929.02(A)(1).

and found them to be reasonable.²⁰ Therefore, the Stipulation does not violate any important regulatory principle or practice.

CONCLUSION

The Stipulation fully satisfies the Commission's test for approval of stipulations. The Stipulation reflects serious bargaining among capable and knowledgeable parties, it benefits ratepayers and the public interest, and it is consistent with all important regulatory principles and practices. The Stipulation should be adopted.

Respectfully submitted,

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²⁰ Staff Ex. 1 (Comments and Recommendations Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio) at 11, 13.

PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Initial Post-Hearing Brief** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served via electronic mail upon the following Parties of Record, this 10th day of April, 2019.

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