

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**REPLY BRIEF OF
COLUMBIA GAS OF OHIO, INC.**

I. INTRODUCTION

Consistent with its past practice and the Commission’s respective orders extending the Demand Side Management (“DSM”) Program and the Infrastructure Replacement Program (“IRP”), on February 28, 2019, Columbia filed its annual application to adjust the DSM Rider and IRP Rider.¹ On April 2, 2019, a Joint Stipulation and Recommendation (“Stipulation”) was filed to resolve the issues in this case.² The Environmental Law and Policy Center (“ELPC”) was the only party to pursue an issue that the parties were unable to settle. The Commission held a hearing on April 3, 2019, to consider the reasonableness of the Stipulation and to allow ELPC to pursue its issue – *i.e.*, additional prospective funding for smart thermostats. Initial Briefs were filed on April 10, 2019, the same day the Commission issued its Second Entry on Rehearing in the 2016 Commission dockets approving the extension of Columbia’s DSM Program (hereinafter “DSM Extension Case”).³

As demonstrated below, the Stipulation meets the Commission’s criteria for the approval of settlements and should be approved without modification. The arguments raised by ELPC should be rejected because they are not supported by record evidence in this case. Moreover, ELPC’s arguments can be better addressed

¹ Consistent with past practice and approved procedures, Columbia also filed its Notice of Intent in this docket on November 28, 2018 to adjust the DSM Rider and the IRP Rider.

² Joint Exhibit 1.

³ *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 Nos. 16-1309-GA-UNC, *et al.*, Second Entry on Rehearing (April 10, 2019).

in Columbia's biannual stakeholder group meetings required by the Second Entry on Rehearing in Case Nos. 16-1309-GA-UNC, *et al.*⁴

II. ARGUMENT

A. The Stipulation meets the Commission's requirements for approving settlements.

The Commission has adopted (and the Supreme Court of Ohio has approved)⁵ a three-part test for considering settlements.⁶ Although not binding on the Commission, the terms of a settlement are afforded substantial weight.⁷ Specifically, the three-part test asks:

- (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 principles or practices?

The ultimate issue for the Commission's consideration is whether the Stipulation, which embodies considerable time and effort by the signatory parties, satisfies the three-part test and should be adopted.⁸

Based on the information provided in Columbia's Application and at hearing, and the support of the Commission's Staff and several other parties, the Stipulation easily satisfies the test's requirements.⁹ No party questions the lawfulness or reasonableness of the Stipulation, nor is any party challenging the reasonableness of the rate adjustments to Riders IRP and DSM to capture 2018 investment.

⁴ *DSM Extension Case*, Second Entry on Rehearing at 11 (April 10, 2019). Columbia does not waive or in any way impair its rights to file an Application for Rehearing in the DSM Extension Case from the Second Entry on Rehearing issued on April 10, 2019 by making the arguments or advocacy in this Reply Brief.

⁵ *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559 (1994).

⁶ See, e.g., *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 Nos. 11-5028-GA-UNC, *et al.*, Finding and Order at 7 (December 14, 2011).

⁷ *Id.*

⁸ *Id.*

⁹ Columbia Initial Brief at 3-5; Staff Initial Brief at 8-10.

The Commission should promptly approve the Stipulation so that Columbia's revised Rider IRP and Rider DSM rates can become effective May 1, 2019.¹⁰ Should the Commission need additional time to consider the issue raised by ELPC, Columbia respectfully requests that the Commission issue an order authorizing the revised Rider IRP and Rider DSM rates to become effective by May 1, 2019, with a subsequent order or supplemental order addressing the ELPC's smart thermostats issue.

B. The issue raised by ELPC appears to be appropriate for this proceeding.

At the April 3, 2019 hearing, Columbia argued that the scope of this proceeding was limited to recovery of Columbia's 2018 DSM expenditures, and, that ELPC's arguments were beyond the scope of this case.¹¹ However, on April 10, 2019, the Commission issued a Second Entry on Rehearing in the DSM Extension Case. In that Second Entry on Rehearing the Commission explained that it "may also consider additions, revisions, or amendment to Columbia's DSM Program as a part of Columbia's DSM Program renewal application or the annual DSM rider proceedings."¹² Given the Commission's explanation in the Second Entry on Rehearing, Columbia acknowledges the Commission's decision that reviews of individual DSM programs may occur in the annual rider update proceedings.¹³

C. Even though the issue raised by ELPC appears to be appropriate in this proceeding, there is not enough record evidence to support the outcome ELPC apparently seeks. The Commission should instead direct the Parties to discuss ELPC's issue at the bi-annual stakeholder meetings ordered in the Second Entry on Rehearing.

The April 10, 2019 Second Entry on Rehearing also clarified another issue of contention in this case. To open the door for its issues related to additional smart thermostats, ELPC relies upon Paragraph 71 of the Commission's Opinion and

¹⁰ Columbia's IRP and DSM riders have their origin in Columbia's 2008 rate case (PUCO Case Nos. 08-72-GA-AIR, *et al*). In that case, on December 3, 2008, the Commission approved a Stipulation and Recommendation resolving the issues in the case. On pages 9-10 of the Opinion and Order, the Commission indicated its intent that Columbia's Riders IRP and DSM are to be approved each year with an effective date of May 1. The Commission has issued an order approving updated rates to be effective by May 1 of each year in every Columbia IRP/DSM case since 2009.

¹¹ Tr. at 15-21.

¹² Second Entry on Rehearing at 9.

¹³ Second Entry on Rehearing at 9-12.

Order in the DSM Extension Case related to program performance. That paragraph states:

...over the term of Columbia's DSM programs approved pursuant to this Opinion and Order, that as Columbia determines any other DSM program within the DSM portfolio is not performing as projected and the program budget should be reduced or the program discontinued, the funds should be transferred to the Simple Energy Solutions program to first develop an education and marketing campaign, in conjunction with electric distribution utilities and gas marketers operating in Columbia's service territory, and then, if participation in Simple Energy Solutions exceeds Columbia's projections, to increase the number of rebates available from Columbia for smart thermostats.

In its April 10, 2019 Second Entry on Rehearing, the Commission clarified its expectations of what the term “underperforming” in paragraph 71 means. Specifically, the Commission stated:

“...an underperforming plan shall be defined as a customer participation rate that is 25 percent or more below the projected customer participation level. DSM Order at ¶71. To that end, Columbia is directed to discuss with the DSM stakeholder group methods to improve participation in the DSM Program and, in order to ensure timely discussions between Columbia and DSM stakeholders, to hold biannual DSM stakeholder meetings. Columbia must discuss any underperforming DSM plan at each biannual meeting and justify, in its annual DSM rider application, any decision to continue an underperforming plan, as opposed to using the funds to develop a customer education and marketing campaign for Simple Energy Solutions.”¹⁴

While the Commission has now defined the term “underperforming”, there is nothing in the record in this case that supports a Commission determination of whether any of Columbia’s programs in 2018 satisfied the new definition. ELPC’s brief focuses on dollars spent, but there is no evidence in the record sufficient to determine projected or actual customer participation in 2018, as is contemplated by the new definition.

¹⁴ Second Entry on Rehearing at 11.

In its Initial Brief, ELPC extols the virtues of an expanded smart thermostat program. However, what exactly the ELPC wants remains a mystery. ELPC provides one assumed hypothetical of what an expanded smart thermostat program could look like with a \$1 million budget for marketing and \$2.6 million for rebates going forward.¹⁵ But ELPC did not put on a witness or introduce evidence to support its assumed hypothetical. As was true in the DSM Extension case,¹⁶ ELPC lacks record evidence for its simplistic hypothetical expansion of the smart thermostat program.

At the outset, Columbia notes it is not philosophically opposed to finding opportunities to provide more customers with smart thermostats. This is evidenced by the increased spending on the Simple Energy Solutions program in 2017 and 2018, above what Columbia anticipated it would spend in this program.¹⁷ However, the record in this case is not sufficient for the Commission to act upon ELPC's ill-defined and unsupported recommendation. ELPC failed to introduce any evidence regarding important considerations such as the feasibility of incentivizing more smart thermostats in 2019, the cost-effectiveness of its proposal, the impact of its proposal on the cost effectiveness of the entire DSM Program, the hurdles to implementation, or whether customer demand even exists for an expanded smart thermostat program. These considerations, as the Commission recently recognized, are critical as a natural gas company executes its DSM Program.¹⁸

Given the lack of a record in this case, the better venue for exploring ELPC's recommendation is the biannual stakeholder meetings required by the Second Entry on Rehearing. Columbia is willing to discuss ELPC's proposal at its next biannual stakeholder meeting,¹⁹ which Columbia anticipates will be held in May or June of this year. If ELPC is not satisfied with the progress of working with the DSM Stakeholder Group, then ELPC can advocate for changes to the Simple Energy Solutions program during Columbia's next annual DSM Rider adjustment proceeding.

¹⁵ ELPC Initial Brief at 5.

¹⁶ In the DSM Extension Case, the Commission similarly rejected ELPC's arguments for lack of record evidence. *DSM Extension Case*, Opinion and Order at 36.

¹⁷ Columbia Exhibit 2 at Schedule DSM-2 (Line No. 2 shows the annual increases in 2017 and 2018 for Simple Energy Solutions).

¹⁸ *DSM Extension Case*, Opinion and Order at 59-60; *In the Matter of the Complaint of Suburban Natural Gas Company v. Columbia Gas of Ohio*, Case No. 17-2168-GA-CSS, Opinion and Order at 29 (April 10, 2019).

¹⁹ Second Entry on Rehearing at 11.

This solution is consistent with the Commission's Second Entry on Rehearing, recognizes the dearth of record evidence in this case to support ELPC's issue, preserves the cost effectiveness and continuity of the DSM Program without disruption, and provides an appropriate forum to more fully understand the value and ramifications of ELPC's proposals. This course of action also squares with the Commission's consistent statements regarding the balance of providing benefits with the costs of natural gas energy efficiency programs.²⁰

III. CONCLUSION

The Commission should promptly approve the Stipulation in its entirety and order Columbia to address ELPC's issues in its biannual stakeholder meetings. This outcome would be consistent with the Commission's Second Entry on Rehearing and allow Columbia's revised Rider IRP and Rider DSM rates to become effective May 1, 2019. Should the Commission need additional time to consider the issue raised by ELPC, Columbia respectfully requests that the Commission issue an order authorizing the revised Rider IRP and Rider DSM rates to become effective by May 1, 2019, with a subsequent order or supplemental order addressing the ELPC's issue in light of the Second Entry on Rehearing.

²⁰ *DSM Extension Case*, Opinion and Order at 59-60; *In the Matter of the Complaint of Suburban Natural Gas Company v. Columbia Gas of Ohio*, Case No. 17-2168-GA-CSS, Opinion and Order at 29 (April 10, 2019).

Respectfully submitted by,

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio’s e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served via electronic mail on the 12th day of April, 2018, upon the parties listed below.

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Summary: Reply Brief electronically filed by Cheryl A MacDonald on behalf of Columbia Gas of Ohio, Inc.