

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Annual Report of Co-)
lumbia Gas of Ohio, Inc. for Approval of) Case No. 21-521-GA-IDR
an Adjustment to its Infrastructure De-)
velopment Rider Rate)

**COMMENTS IN RESPONSE TO
STAFF REPORT OF
COLUMBIA GAS OF OHIO, INC.**

On March 12, 2021 in the above-captioned case, Columbia Gas of Ohio, Inc. (“Columbia”) submitted its annual report and request to increase its Infrastructure Development Rider (“IDR”) pursuant to R.C. 4929.165 and Ohio Adm.Code 4901:1-43-04(B). On April 2, 2021, Columbia filed revised tariffs and associated correspondence (“Revised IDR Rates”), reducing the proposed rate for the IDR. On May 21, 2021, Staff filed its Review and Recommendation (“Staff Report”).

The Staff Report contains three recommendations unrelated to the rates proposed in Columbia’s April 2, 2021 revised tariff sheets. In its final paragraph, Staff recommends that the proposed rates go into effect “subject to the auto approval process and the rules.” Ohio Adm.Code 4901:1-43-04(C) provides that “[p]roposed rates will become effective on the seventy-sixth day,” following the filing of an annual report “unless suspended by the commission for good cause shown...” Columbia submits these comments in response to Staff’s recommendations. As these recommendations advocate Commission action related to future filings, the Commission need not act prior to the effective date of the rates proposed by the Revised IDR Rates.¹

STAFF’S FIRST RECOMMENDATION

Staff first recommends that Columbia adopt a process improvement in order to help prevent future mistakes in the categorization of certain assets associated with the IDR. As Columbia has already adopted a new procedure targeted at

¹ In the Annual Report, Columbia proposed that new rates go into effect with Unit 1 June billing.

mitigating this issue, which was provided in response to a Staff data request, Columbia does not object to Commission adoption of this recommendation.

STAFF'S SECOND RECOMMENDATION

In its second recommendation, Staff requests that the Commission order Columbia to provide “detailed accounting and allocation explanations” associated with costs recovered from three specifically identified vendors “concurrent with the filing of the next annual report.” In a typical audit, Staff selects a statistical sample of Columbia invoices for review in order to determine whether the costs stemming from these invoices were appropriately applied to the audited recovery mechanism. Columbia provides all relevant information related to these selected invoice samples. Under Staff’s proposed recommendation, the Commission would essentially be pre-selecting all invoices from these three specific vendors in the review of the rider.

This pre-selection prior to viewing the significance of dollar amounts charged to Columbia by these vendors creates a new burden on Columbia personnel prior to any discovery process beginning in a proceeding.² For this reason, Columbia recommends that the Commission decline to adopt this recommendation. However, if the Commission is inclined to adopt this recommendation, it should only require Staff’s recommended information to be (a) submitted to Staff, similar to other discovery requests, during the audit associated with next year’s annual report, and (b) limit the invoices to those that are material. Columbia proposes that this materiality threshold be set at \$10,000.

STAFF'S THIRD RECOMMENDATION

Staff’s third recommendation asks the Commission to order Columbia to provide three specific pieces of information: 1) confirmation that businesses with approved Economic Development Projects (“EDP”) are operational; 2) the current number of jobs created and jobs retained compared to the EDP application; and 3) “the total final investment dollars spent by the customer, community, and/or third parties for the project compared to what was filed in the EDP.” Initially, it is not evident why this information is being required for projects with costs not being recovered by the current IDR filing. Moreover, information responsive to each of these requests is neither within Columbia’s possession, nor control. Finally, it is

² Columbia notes that the IDR rate proposed in this case is \$0.27 per month.

arguable that this information is outside the confines of the Ohio Revised Code and the Commission's purview for these proceedings.

a) Staff's recommendation requests information outside the scope of this proceeding.

In the annual IDR rider update filings, Columbia requests recovery of costs for certain economic development projects in which Columbia incurs costs. The IDR recovery is limited to project costs incurred in the calendar year. By the nature of this recommendation, Staff is requesting information for all of Columbia's economic development projects. This includes Columbia's first economic development project, the Sofidel Pipeline Project, where costs have been fully recovered for almost three years, to its most recent projects.³

In this proceeding, Columbia was requesting recovery of five economic development projects out of the fourteen Commission-approved economic development projects.⁴ Any information requested by Staff in the scope of the audit should be limited to those projects that are being recovered in this proceeding. Columbia asks the Commission, at a minimum, recognize this limitation on the scope of this proceeding.

b) Staff's recommendation requests information that is not within Columbia's possession or control.

Any investigation, whether it is discovery or information inquiry, requires the disclosure of information that is controlled or in the possession of the utility. In essence, a party cannot "discover" or "investigate" what another does not know. Here, Staff is requesting that Columbia, without a subpoena or other legal mechanism, obtain information that Columbia does not possess. Simply stated, Columbia does not collect the requested information as a part of its ordinary course of business. Columbia also does not possess a mechanism by which it can compel this information from customers with approved EDPs.

³ Sofidel Pipeline Project was approved in Case No. 16-2069-GA-EDP on November 24, 2016. The costs to recover the Sofidel Pipeline Project were approved in Case No. 17-521-GA-IDR, and such costs were fully recovered by May 2018.

⁴ Columbia requested recovery of the Lawrence Economic Development Corporation Project (LEDC); Next Generation Films, Inc.; Mucci Farms, Inc.; Emerson Process Management Value Automation, Inc.; and American Freight Project.

In responding to Staff's original data request on this subject, Columbia voluntarily requested this information from third parties and received a mixed response. Columbia provided to Staff any information it received, but, as noted in the Staff Report, this information was "incomplete." Unlike the Commission with subpoena power, Columbia does not have the ability to compel third parties to provide information that is neither public nor required to be produced.

As such, Columbia requests that the Commission decline to adopt Staff's third recommendation.

c) Staff's recommendation is not rooted in the statute or Commission rules adopting the IDR

The request for additional information about all economic development projects is outside the reviews set forth in the Ohio Revised Code and the Commission's Rules governing the Infrastructure Development Rider. Specifically, Ohio Adm.Code 4901:1-43-04, the provision outlining the process by which a utility adjusts the IDR annually, does not include a requirement for updates on all approved economic development projects. Nor should it. The practical issues with obtaining the information aside, the ongoing requirement for any project without a time limitation, on its face, would lead to a utility providing information 5, 10, 15 or 20 years after a project's costs have been recovered. Moreover, in the current rulemaking docket for IDR rules, Case No. 21-0010-GA-ORD, Staff did not propose to incorporate this requirement into Ohio Adm.Code 4901:1-43-04.

Finally, if this type of information was contemplated by the Commission, it would have established a process for doing so. Evidence of this fact can be found in an economic development mechanism applicable to electric distribution utilities. The Commission's rules governing the review of reasonable arrangements approved under R.C. 4905.31 contemplate the collection of this kind of information and establish a process for doing so. Ohio Adm.Code 4901:1-38-06 specifically mandates that the utility require a customer-recipient of an arrangement to provide information in the form of an annual report submitted to staff in order to provide staff with information similar to the subject of what is requested in the Staff Report. If the Commission envisioned such a requirement for the EDP program, it would have included a similar provision in adopting Ohio Adm.Code 4901:1-43.

WHEREFORE, Columbia requests that the Commission decline to adopt or modify Staff's second recommendation, and decline to adopt Staff's third recommendations from the Staff Report in this proceeding.

Respectfully submitted by,

COLUMBIA GAS OF OHIO, INC.

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Summary: Comments Comments in Response to the Staff Report
electronically filed by Mr. John R Ryan on behalf of Columbia Gas of Ohio