BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbia Gas of Ohio, Inc. for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters.	)))))	Case No. 21-637-GA-AIR
In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation.	)))	Case No. 21-638-GA-ALT
In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of a Demand Side Management Program for its Residential and Commercial Customers.	)))))	Case No. 21-639-GA-UNC
In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval to Change Accounting Methods.	)))	Case No. 21-640-GA-AAM

OBJECTIONS TO THE STAFF REPORTS OF INVESTIGATION AND SUMMARY OF MAJOR ISSUES OF INDUSTRIAL ENERGY USERS-OHIO

Matthew R. Pritchard (Reg. No. 0088070)
(Counsel of Record)
Bryce A. McKenney (Reg. No. 0088203)
MCNEES WALLACE & NURICK LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 719-2842
Telecopier: (614) 469-4653
mpritchard@mcneeslaw.com
bmckenney@mcneeslaw.com
(willing to accept service via email)

MAY 6, 2022

COUNSEL FOR INDUSTRIAL ENERGY USERS-OHIO

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbia Gas of Ohio, Inc. for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters.	)	Case No. 21-637-GA-AIR
In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation.	)	Case No. 21-638-GA-ALT
In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of a Demand Side Management Program for its Residential and Commercial Customers.	)	Case No. 21-639-GA-UNC
In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval to Change Accounting Methods.	)	Case No. 21-640-GA-AAM

OBJECTIONS TO THE STAFF REPORTS OF INVESTIGATION AND SUMMARY OF MAJOR ISSUES OF INDUSTRIAL ENERGY USERS-OHIO

Pursuant to Section 4909.19, Revised Code, Rule 4901-1-28, Ohio Administrative Code ("O.A.C."), and the Attorney Examiner's Entry dated April 25, 2022, Industrial Energy Users-Ohio ("IEU-Ohio") hereby files its Objections to the Staff Reports of Investigation and Summary of Major Issues ("Staff Reports") in the above-captioned matters. In submitting the Objections listed below, IEU-Ohio specifically reserves the right to contest, through presentation of documentary evidence, testimony or cross-examination, issues on which Staff's position changes, or which are newly raised, between the issuance of the Staff Reports and the closing of the record.

I. OBJECTIONS

A. Revenue Allocation

IEU-Ohio objects the Staff Report's lack of a definite recommended revenue allocation to each rate class. The Staff Report recognizes that current rates for General Service ("GS") and Large General Service ("LGS") are producing a rate of return for Columbia Gas of Ohio ("Columbia") in excess of Columbia's requested rate of return.[1] That is, the GS and LGS rate schedules are subsidizing the Small General Service (SGS) rate schedule and should see a revenue decrease to return to rates based on the cost-of-service analysis. The Staff Report correctly notes that Columbia's proposed revenue allocations "are not representative of the costs to serve these classes" and Staff further recognizes that Columbia's proposal includes "interclass subsidies."[2] The Staff Report, however, does not identify a specific revenue allocation among the classes due to the significant other changes to Columbia's proposal that Staff recommends in the Staff Report. In the Staff Report the Staff recommends that Columbia rerun an analysis that incorporates the other changes Staff recommends in the Staff Report. IEU-Ohio accordingly objects to the lack of a specific revenue allocation in the Staff Report and looks forward to working with the parties to develop a revenue allocation that approximates the cost to serve the customers in each rate schedule.

IEU-Ohio also objects to the Staff Report's adoption of Columbia's class rate of return analysis. As noted above, certain customer classes have been bearing a disproportionate burden of cost recovery for Columbia. Columbia and the Staff Report

[1] Staff Report at 37.

[2] Staff Report at 38.

would continue this burden by requiring the GS and LGS rate schedules to pay rates that generate a rate of return for Columbia in excess of the rate of return sought (i.e., some classes would be asked to pay a less percent of a return than average, and other classes a greater percent of a return to Columbia). IEU-Ohio recommends that the Commission adopt rates that better reflect the cost to serve each customer class and the customers within those classes.

B. SGS, GS, and LGS Rate Schedule Rates

IEU-Ohio objects to the lack of proposed rates in the Staff Report for these rate schedules.[3] IEU-Ohio understands and appreciates Staff's position that Columbia needs to rerun the cost-of-service analysis given Staff's recommendations in the Staff Report, and that rerunning the cost-of-service study will impact the rates. IEU-Ohio looks forward to working with the parties to develop rates that approximate the costs to serve each customer class and the customers within each class. However, the lack of specific rates prevents IEU-Ohio from providing a more detailed objection.

C. Bill Impact From IRP, CEP, and other Riders

IEU-Ohio objects to the Staff Report's failure to propose additional bill impact mitigation measures for the Capital Expenditure Program (CEP), Infrastructure Replacement Program (IRP), and other potential future riders. Over the past decade significant investment was made and recovered through the IRP and CEP Riders. Somewhat offsetting the historic impact of these riders was a period of modestly priced natural gas. However, beginning last fall and continuing as of the filing of these objections, there has been a period of significant increases in the price of natural gas. As

[3] Staff Report at 39-41.

noted in the Staff Report, Columbia also sought approval of a new rider, the Federally Mandated Investment Rider. Although the Staff Report finds this new rider premature and recommends it be rejected at this time, the Staff Report notes that Columbia estimated costs to comply with future Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations under the "Mega Rule" could be as high as $2.25 billion.[4]

Columbia needs to make whatever investments in its system are necessary to provide adequate, safe, and reliable utility service, but it must be delivered at fair prices that deliver just and reasonable rates.[5] In designing and authorizing the IRP, CEP, and potential other riders, the Commission needs to balance the rate increases customers have already undertaken under these programs, the increases the utilities are seeking, and the increases in market prices that customers must also pay for natural gas service. To this end, IEU-Ohio recommends that the Commission carefully consider the scope of the programs and what is actually necessary under the programs to provide adequate, safe, and reliable service, consider caps on the revenue eligible to be collected under the riders, and take other actions to mitigate the rate impacts on customers.

D. DSM Program

As part of this proceeding (Case Nos. 21-639-GA-UNC and 21-640-GA-AAM), Columbia seeks approval to continue its energy efficiency ("EE") and demand side management program ("DSM").[6] Columbia proposes to charge customers approximately

---

[4] Staff Report at 48-49.

[5] See PUCO Mission Statement.

[6] Application at 87-110 (IEU-Ohio has cited to the pages of the PDF as the DSM application is included as part of the overall application package and the DSM application restarts numbering at page 1 in the middle of the larger PDF).

$30 million per year and requests a total budget of $154,290,165 over a 5-year period starting in 2023. The Staff Report recommends that annual funding be capped at no more than the 2022 level of $35,643,682.[7] IEU-Ohio supports the Staff Report's recommendation to reject Columbia's request to include part of this funding in base rates.[8]

IEU-Ohio, however, objects to the Staff Report's failure to recommend that the DSM program be treated in the same manner as the Staff recommended for the Carbon Reduction program. With respect to the latter program, Staff noted that uncollectible costs associated with the program should be "ineligible for recovery through the Uncollectible Expense Rider, since it is not related to distribution service."[9] For the carbon reduction program proposed by Columbia, Staff recommended that it be treated as a voluntary non-regulated service.[10] IEU-Ohio supports customers rights to choose what additional products and services they receive in addition to regulated distribution service. This is especially important given Columbia's proposal to expand what customers would involuntarily fall under the DSM program. IEU-Ohio also supports the Commission's careful and wholistic consideration of the various riders, programs, and components of a customer's natural gas bill to ensure that adequate, safe, and reliable service is delivered at fair prices, while facilitating an environment that provides competitive choices.

---

[7] Staff Report at 20.

[8] Staff Report at 19-20.

[9] Staff Report at 51.

[10] *Id.* at 50-51.

E. Return on Equity

IEU-Ohio objects to the Staff Report's proposed return on equity range. The Staff Report fails to address the reduced regulatory risk and regulatory lag on Columbia as a result of Columbia's ability to collect significant revenue going-forward through riders.

F. Rate Design Changes

IEU-Ohio objects to the Staff Report's recommended change in rider rate design for the GS and LGS rate classes.[11] Staff notes that it has a concern for intraclass subsidies and therefore recommends that the fixed charges under the IRP and CEP riders be reexamined.[12] Here again, Staff notes that its specific recommendation is going to depend on Columbia rerunning the cost-of-service analysis.[13] Staff notes a variety of possible changes to the rate design, including rates that are a percentage of base distribution rates, or a combination of fixed and variable charges.[14] Staff also notes that its final recommendation may change once it has that analysis to mitigate potential rate impacts on specific customers.[15] IEU-Ohio supports the base rates, and rider rates being designed to better approximate the cost to serve customers and supports working with Staff and the other parties to develop such rates. However, the lack of specificity in Staff's proposed changes to the rate design prevents IEU-Ohio from making any more specific objections to the undefined and unknown but recommended change in rate design.

[11] Staff Report at 40.

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

G. Tariff

IEU-Ohio objects to the tariff language regarding meter location on Sheet No. 7, Section 3. IEU-Ohio supports the Staff Report's recommendation to remove the language that provides Columbia can determine meter location "at its sole discretion." However, as drafted it still provides that Columbia shall determine meter location. The Commission should direct Columbia to modify its tariff to provide that while Columbia may determine the location of the meter and how its distribution should be connected to a customer's facilities, that Columbia should also work with customers to accommodate requests for different meter and physical connections requested by the Customer, with the Customer paying the incremental costs, if any, of such alternative request.

IEU-Ohio objects to the definition of school eligible to receive Schools Service under the sales service and transportation service provisions of the GS, GTS, LGS, and LGTS rate schedules. The definition should be revised to make such service available to all school facilities that meet the other applicability requirements so that the service is available on a comparable and nondiscriminatory basis to all similarly situated customers.

IEU-Ohio objects to the Staff Report's failure to object to the change on Sheet No. 42 under the "Interruption" provision. Columbia proposes to add language providing that it will have no liability for service interruptions as may be reasonably necessary in order for Columbia to make repairs or changes to its plants, system, or other property.[16] The Commission should direct Columbia to not charge customers for any time period in which Columbia interrupts their service. The Commission should also direct Columbia to revise the "no liability" language such that it is not permitted to be relieved from liability for

[16] Sheet 42 (See Schedule E.21 at page 79).

unreasonable or inadequate service, for willful or wanton conduct, or for negligence.[17] Finally, the Commission should require Columbia to provide, except in emergency situations, reasonable notice to customers of forthcoming interruptions.

II. SUMMARY OF MAJOR ISSUES

The major issues in this case will be:

1. The magnitude of the increase or decrease in rates;
2. Columbia rerunning the cost-of-service analysis based upon Staff's recommendations in the Staff Report;
3. The development of rates that better approximate the cost to serve customers under the various rate schedules;
4. The appropriate consideration of cost recovery riders in this proceeding;

[17] *See In the Matter of the Investigation into Limitation of Liability Clauses Contained in Utility Tariffs*, Case No 85-1406-AU-COI, Opinion and Order at Appendix A (Oct. 6, 1987):

> Policy Statement
>
> 1) Tariff provisions purporting to relieve a public utility from liability for damages caused by conditions and circumstances beyond the utilities' control (for example, non-negligent service interruptions) and for damages to a customer's equipment and appliances after the point of delivery will be permitted by the Commission.
>
> 2) Tariff provisions purporting to relieve a public utility from liability for unreasonable or inadequate service will not be permitted in tariff filings.
>
> 3) Tariff provisions purporting to relieve a public utility from liability for damages caused by the utility's willful and wanton misconduct will not be permitted in tariff filings.
>
> 4) Tariff provisions purporting to relieve a public utility from liability for damages caused by a utility's negligence will be permitted in tariff filings. However, any tariff containing such language must also include a disclaimer to the following effect:
>
>> Approval of the above tariff language by the PUCO does not constitute a determination by the Commission that the limitation of liability imposed by the Company should be upheld in a court of law. Approval by the Commission merely recognizes that since it is a court's responsibility to adjudicate negligence and consequent damage claims, it is also the court's responsibility to determine the validity of the exculpatory clause.
>>
>> Any utility choosing to recite its exculpatory tariff language in response to a customer inquiry concerning a damage claim must also explain, in laymen's terms, that the Commission has not endorsed such limitations, and that a court might invalidate them.

5. The appropriate rate of return due to the decrease in regulatory lag risks from the various distribution related riders;
6. Customers having access to competitive choices for services that are not part of distribution service, *e.g.* the DSM and carbon reduction programs;
8. Wholistic consideration of all of the components of a customer's natural gas bill when considering the scope, budgets, and voluntariness of the plethora of additional services Columbia seeks authority to provide or continue providing that are in addition to what is necessary to provide the regulated distribution service.

Respectfully submitted,

/s/ Matt R. Pritchard
Matthew R. Pritchard (Reg. No. 0088070)
(Counsel of Record)
Bryce A. McKenney (Reg. No. 0088203)
McNees Wallace & Nurick LLC
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 719-2842
Telecopier: (614) 469-4653
mpritchard@mcneeslaw.com
bmckenney@mcneeslaw.com

Counsel for Industrial Energy Users-Ohio

CERTIFICATE OF SERVICE

In accordance with Ohio Adm.Code 4901-1-05, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Objections to the Staff Report of Investigation and Summary of Major Issues of Industrial Energy Users-Ohio* was sent by, or on behalf of, the undersigned counsel for IEU-Ohio to the following parties of record this 6th day of May, 2022, *via* electronic transmission.

/s/ Matt R. Pritchard
Matthew R. Pritchard

josephclark@nisource.com
johnryan@nisource.com
egallon@porterwright.com
mstemm@porterwright.com
bhughes@porterwright.com
dflahive@porterwright.com
mkurtz@BKLlawfirm.com
kboehm@BKLlawfirm.com
jkylercohn@BKLlawfirm.com
paul@carpenterlipps.com
christopher.healey@occ.ohio.gov
angela.obrien@occ.ohio.gov

Attorney Examiners:
gregory.price@puco.ohio.gov
jacqueline.st.john@puco.ohio.gov