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 REPORT
AND COLUMBIA GAS OF OHIO'S APPLICATION
BY
THE KROGER CO.

I. INTRODUCTION

Pursuant to R.C. 4909.18, R.C. 4909.19, R.C. 4929.05, Ohio Adm.Code 4901-1-28, Ohio Adm.Code 4901:1-19-07(F), and the Public Utilities Commission of Ohio's (Commission) April 14, 2022 Entry, The Kroger Co. (Kroger) hereby respectfully submits its objections to the Staff

Report of Investigation (Staff Report) and Application.[1] The Staff Report addresses the Application filed by Columbia Gas of Ohio, Inc. (Columbia) on June 30, 2021.[2]

Columbia's Application seeks Commission approval for an increase in Columbia's natural gas distribution rates, for continuation of its alternative rate plan, including the infrastructure replacement program (IRP) and the capital expenditure (CEP) riders, for the creation of new riders, for the continuation of its energy efficiency programs, and for various other changes to Columbia's tariffs and accounting methods.[3] As part of its request for an increase in base rates, Columbia seeks to increase its current base distribution revenues by over 21%.[4]

Pursuant to R.C. 4909.19(C), "the burden of proof to show that the increased rates or charges are just and reasonable shall be on the public utility."[5] The Commission shall fix and determine the just and reasonable rate, fare, charge, toll, rental, or service to be rendered, charged, demanded, exacted, or collected.[6] After reviewing the Application, Commission Staff recommended a significantly lower increase in the range of approximately 3.98% to 6.34% over test year operating revenue.[7] This represents an increase between $35,197,000 and $57,554,000 to base distribution revenue.[8]

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[1] *See* Staff Report of Investigation at (Apr. 6, 2022) (Staff Report); Application for Authority to Increase Rates, For Approval of an Alternative Rate Plan, For Approval of a Demand Side Management Program, and For Approval to Change Accounting Methods (June 30, 2021) (Application).

[2] *See* Application for Authority to Increase Rates, For Approval of an Alternative Rate Plan, For Approval of a Demand Side Management Program, and For Approval to Change Accounting Methods (June 30, 2021) (collectively, Application).

[3] *See* Application.

[4] *See* Staff Report at 5.

[5] R.C. 4909.19(C).

[6] R.C. 4909.15(E).

[7] *Id.*

[8] *Id.*

R.C. 4909.19, Ohio Adm.Code 4901-1-28(B), and Ohio Adm.Code 4901:1-19-07(F), require that objections to the Staff Report and alternative rate plan application be filed within thirty days after such filing.[9] The Commission issued an Entry on April 14, 2022,[10] deeming the Staff Report filed as of July 26, 2021, and, pursuant to R.C. 4909.19, Ohio Adm.Code 4901-1-28(B), and Ohio Adm.Code 4901:1-19-07(F), directing interested parties to file objections within thirty days of that date.[11]

Kroger supports many findings, recommendations, and proposed adjustments contained in the Staff Report regarding Columbia's Application. That being said, in order to protect customers from unjust and unreasonable rates and charges, Kroger believes that the Staff Report could have and should have made additional recommendations. Accordingly, Kroger hereby files its objections to the Staff Report and Application.

Kroger reserves the right to supplement or modify these objections in the event that Staff makes additional findings, conclusions, or recommendations with respect to the Staff Report, or the Columbia files additional information or modifies its Application. Kroger also reserves the right to respond to objections or other issues (either in support or in opposition) raised by other parties in these proceedings.

II. OBJECTIONS TO STAFF REPORT

A. Kroger Objects to the Staff Report's Failure to Propose the Appropriate Rate Design Based on a Proper Cost of Service Study.

The results of a cost of service study forms the basis for many of the factual findings in a rate case. Accordingly, a utility seeking an increase to base distribution rates must submit a cost

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[9] R.C. 4909.19(C); Ohio Adm.Code 4901:1-19-07(F)(1)(a); Ohio Adm.Code 4901-1-28(B).

[10] Pursuant to the April 14, 2022 Entry, Kroger filed its motion to intervene in the above-captioned matter on May 4, 2022.

[11] Entry at ¶¶ 3-4 (July 30, 2021).

of service study to comply with the Commission's standard filing requirements.[12] As Commission Staff noted:

> Cost of service studies approximate the costs incurred by a utility in providing service to rate classes and identify the cause of the costs. These are determined by assigning the costs to the customer class relative to what each class imposes on the system. There are several steps involved: functionalization, classification, and allocation.
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> Normally, and to the extent sufficient information is available, cost of service studies and related expense analyses are necessary to determine the appropriate level of revenue to be generated and the appropriate recovery of such revenue.[13]

In an attempt to comply with this requirement, Columbia submitted a cost of service study with its Application.[14] However, Commission Staff rejected several of the inputs that Columbia improperly relied on in performing its cost of service study. Commission Staff found that while Columbia's proposed methodology represented an improvement over previous methodologies in decreasing interclass subsidies, due to the incorrect inputs, the results of the cost of service study were unreasonable.[15]

First, as part of its Application, Columbia requested "[i]ncreasing the volumetric breakpoint between its Small General Service (SGS)…rate classes, and its General Service (GS)…rate classes, from 300 Mcf per year to 600 Mcf per year."[16] Staff found this proposal unreasonable, as it would have shifted "approximately 17,000 customers or 45 percent of the current GS Rate Classes customers" to the SGS rate class.[17]

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[12] *See* Ohio Adm.Code 4901-7-01, Appendix A (Standard Filing Requirements) at 118.

[13] Staff Report at 33-34

[14] *See* Application at Schedule E-3.2.

[15] Staff Report at 36-38.

[16] Application at 4.

[17] Staff Report at 35.

Second, Columbia's cost of service study relied on its proposed current operating revenue of $104 million.[18] Staff found this current operating revenue to be unreasonably low, and more properly recommended a current operating revenue of $209 million.[19] However, Columbia used both the shift among the customer classes and the unreasonably low current operating revenue in performing its cost of service study.

Since the results of the cost of service study relied on these incorrect inputs, Commission Staff did "not find the results of the Applicant's cost of service to be a reasonable presentation of the costs to serve each rate class and should not be used as a starting point for designing rates."[20] Commission Staff stated that the model should be rerun using Staff's recommendations for the rate class breakpoint and operating revenue. The Staff Report indicated Staff would "issue a Data Request that requests a modified COSS based on Staff's recommendations in this report and new rates based on the modified [cost of service study]."[21] Subsequently, "the modified [cost of service study] should be used for a basis of rate design."[22]

Since the Staff Report rejected the cost of service study, the Report also does not contain recommendations regarding the elements of rate design dependent on the results of the study. Instead, the Staff Report noted that the Report "should not be used as a proxy for Staff proposed rates,"[23] and that Staff will request new proposed rates from Columbia based on the modified cost of service study.[24]

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[18] Staff Report at 38.

[19] *Id.*

[20] *Id.*at 38.

[21] *Id.*at 42.

[22] *Id.*at 38.

[23] *Id.*at 28.

[24] *Id.* at 42.

Kroger supports Commission Staff's changes to the inputs underlying the cost of service study. However, to the extent the Staff Report does not contain recommendations regarding rate design because cost of service study was rejected, Kroger is unable to support or object to a Staff recommendation regarding rate design. As such, Kroger objects to the Staff Report to the extent it fails to set forth recommendations for rate design based on an appropriate cost of service study. Furthermore, Kroger reserves the right to make such objections to the proposed rate design that isbased upon a modified cost of service study, and any findings or recommendations based on the modified study.

B. Kroger Objects to the Staff Report's Failure to Reject Columbia's Proposed Customer Charges and Total Bill Increases.

Kroger further objects to the Staff Report to the extent it fails to reject elements of the rate design proposed by Columbia that result in unjust and unreasonable rates to customers. As discussed above, Columbia has the duty to demonstrate that its proposed increased rates and charges are just and reasonable.[25] Moreover, the Commission has a duty to fix and determine just and reasonable rates and charges to be collected.[26] The proposed customer charges and total bill increases are not just and reasonable and should be rejected.

Columbia's proposed customer charges are based on the excessive return on equity, rate of return, rate base, and revenue requirement requested by Columbia. As such, they would result in massive abrupt bill spikes for customers. Kroger objects to the Staff Report to the extent that the Staff Report fails to reject these increases. For example, Columbia proposes raising the customer charge for the GS rate class by 816.82%, and raising the customer charge for the LGS rate class

[25] R.C. 4909.15(C).

[26] R.C. 4909.15(E).

by 893.69%.[27] While Commission Staff correctly rejected the excessive, unjust, and unreasonable revenue requirement proposed by Columbia, it did not put forth alternative customer charges or total bill increases that are just and reasonable. As such, the Staff Report failed to properly reject the customer charges and total bill increases that result from Columbia's requested proposal.

C. Kroger Objects to the Staff Report's Excessive, Unjust, and Unreasonable Recommended Rate of Return and Resulting Revenue Requirement.

Columbia's unreasonable and unjust proposed customer charges and total bill increases are based in part on the unreasonable and unlawful return on equity and rate of return requested by Columbia. While the Staff Report properly rejected Columbia's proposed return on equity and rate of return, the Staff Report's recommended return on equity and rate of return remain unreasonable and unjust. This excessive and unjust rate of return will also result in an unreasonable and unjust revenue requirement.

The Staff Report recommended a rate of return in the range of 6.88% to 7.39%.[28] It also recommended a return on equity in the range of 9.04% to 10.05%.[29] Columbia had proposed a rate of return of 7.85%.[30] Although Staff's recommendation is a move in the right direction from Columbia's proposal, it still fails to account for the reduced risk faced by Columbia.

Columbia, as the state's largest natural gas utility,[31] faces lower financial risk. Additionally, Columbia's parent company, NiSource Inc., also owns several other regulated

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[27] Staff Report at 41.

[28] *Id.* at 26-27 and Schedule A-1.

[29] *Id.*

[30] *Id.*

[31] *Id.* at 7 ("Columbia Gas of Ohio, Inc. (Columbia, Applicant, or the Company), is a regulated utility, and is engaged in the business of supplying natural gas for lighting, power, or heating purposes to more than 1.4 million customers in 60 of Ohio's 88 counties. Columbia, a subsidiary of NiSource Inc., is the largest local gas distribution company in Ohio.").

utilities in other states. This consolidated portfolio reduces the risk associated with owning a single distribution utility. Moreover, the utilities benefit from reduced costs associated with shared resources and assets[32] as well as shared services provided by NiSource.[33] Commission Staff properly excluded these shared expenses from Columbia's rate base. However, Commission Staff did not explain the effect of these factors on Columbia's financial risk.

Moreover, Columbia's alternative rate plan (inclusive of cost recovery riders) and straight fixed variable rate design, which it proposes to continue in this Application, substantially lower its financial risk. A number of fixed-charge riders provide Columbia with guaranteed cost recovery. Columbia also benefits from a distribution decoupling mechanism in the form of a straight-fixed variable rate design. Columbia's alternative rate plan allows Columbia "to track and recover, on an annual basis, costs of implementing the Infrastructure Replacement Program (IRP) and Capital Expenditure Program (CEP)."[34] Columbia recovers the Rider IRP and Rider CEP from SGS, GS and LGS customers through fixed monthly charges, which allow Columbia guaranteed, real-time cost recovery for certain expenses. These fixed monthly charges constitute a significant portion of the bills paid by customers. Although Columbia seeks to incorporate existing IRP and CEP costs into base rates,[35] Columbia may modify these programs for future recovery in subsequent adjustment filings, as it also has proposed to continue both the IRP and the CEP in its current Application.

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[32] *See, e.g.*, Staff Report at 11 ("While inspecting a pipe cutting and beveling machine at NiSource's Mount Vernon, Ohio facility, the Company confirmed that the asset is used to service all of the NiSource service territories, both in and out of Ohio.").

[33] *See, e.g., id.* at 21-22.

[34] *Id.* at 39.

[35] Application at 4.

Again, the Staff Report failed to analyze the effect of the alternative rate plan and cost recovery riders on Columbia's financial risk. Commission Staff noted that "[rider] rates should be evaluated when considering the appropriateness of any proposed rate" in its analysis of total bill increases.[36] However, Commission Staff did not address how these rider rates should be evaluated when considering the appropriateness of the return on equity and rate of return.

Therefore, Kroger objects to the Staff Report's recommended rate of return and return on equity. The Staff Report fails to adequately account for factors mitigating Columbia's financial risk. Columbia benefits from economies of scale and guaranteed cost recovery through its alternative rate plan, and is not entitled to an unjust and unreasonable rate of return in the range of 6.88% to 7.39%.[37] The Staff Report should have recommended a lower range, or at least recommended that the Commission adopt a rate of return at the lower end of the Staff Report's range.

D. Kroger Objects to the Staff Report's Recommendation that Columbia Continue its Alternative Rate Plan and Continue to Recover or Defer Certain Costs Through Columbia's Alternative Rate Plan.

Columbia's Application for an alternative rate plan requests authority to continue its IRP and CEP programs, as well as the associated Rider IRP and Rider CEP.[38] Columbia also requests authority to establish a Federally Mandated Investment Rider, a Regulatory Assessment Rider, Federal/State Tax Reform Rider, and Carbon Reduction Rider.[39]

With regard to the IRP, the Commission Staff properly recommended that Columbia "provide revised 'Anticipated Totals to be Replaced' total mileage amounts for each respective

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[36] Staff Report at 40.

[37] *Id.*at 26-27 and Schedule A-1.

[38] *Id.*at 45-47.

[39] *Id.*at 47-51

category…and provide Staff with the anticipated timeframe to complete these projects and the Company's assumptions for the calculation of the 'Anticipated Totals to be Replaced' for these respective categories."[40] As noted by Staff, "the 'Anticipated Totals to be Replaced' for each respective category…exceeded [Columbia's] original estimates pursuant to Case No. 08-0072-GA-AIR."[41]

However, Kroger objects to the extent that Commission Staff's recommendations still do not reasonably limit the scope of costs recoverable through the CEP Rider or through Columbia's alternative rate plan as a whole. Commission Staff should also recommend that expanded IRP costs be excluded from inclusion in the IRP or recovery under Rider IRP unless Columbia provides such evidence necessary as to support an application to continue an alternative rate plan pursuant to R.C. 4929.05 and 4929.05, or a motion to modify an alternative rate plan pursuant to R.C. 4929.08, justifying inclusion of the expanded costs in Columbia's IRP.

E. Kroger Objects to the Staff Report's Failure to Propose Reasonable Cost Caps for Rider IRP and Rider CEP.

Kroger objects that the Staff Report failed to recommend specific, reasonable, and meaningful rate caps for Columbia's alternative rate plan, including rate caps for Rider IRP and Rider CEP. In the past, Commission Staff has recommended "that Columbia work with Staff to identify reasonable and meaningful annual caps (spending, revenue requirement, rate, etc.) in order to keep costs under control and ensure ratepayers are not burdened with excessive and unnecessary plant investments."[42] Reasonable cost caps, whether on total costs, rates, charges, or duration,

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[40] Staff Report at 45.

[41] *Id.* at 45.

[42] *See In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval of an Alternative Form of Regulation*, Case No. 17-2202-GA-ALR, Staff Report at 7 (Sept. 14, 2008).

would help prevent recovery of "excessive and unnecessary plant investments." As such, Commission Staff should have recommended reasonable cost caps.

The Staff Report included a Rider CEP cap of $0.75 with no further deferrals,[43] excluded audit costs from Rider CEP,[44] and established a Rider IRP rate cap for the SGS rate class.[45] However, Staff failed to make further recommendations to protect customers. As such, Staff's proposals are insufficient to adequately protect customers from the burdens of excessive and unnecessary plant investments. For example, Commission Staff failed to recommend a specific cost cap for Rider IRP for the GS and LGS rate classes. Additionally, the Rider CEP cap recommended by Staff could still result in excessive total bill increases for customers. Therefore, Kroger objects to the extent the cost caps recommended by Staff fail to provide a meaningful check on overspending.

F. Kroger Objects to the Staff Report's Recommendation to Continue Columbia's DSM Program.

Finally, although the Staff Report correctly recommends that Columbia's DSM program not be expanded and funding increased, Kroger objects to the continuation of the DSM program and cost recovery through Rider DSM at the 2022 levels (over $35 million).[46] Kroger also supports Staff's recommendation to deny the continuation of the Company's shared savings incentive program.[47]

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[43] Staff Report at 46.

[44] *Id.* at 47.

[45] *Id.* at 45-46.

[46] *Id.* at 19-20.

[47] *Id.*

III. OBJECTIONS TO APPLICATION

A. Kroger Objects to Columbia's Failure to Provide a Proper Cost of Service Study in its Application and Columbia's Failure to Amend its Application with a New Cost of Service Study.

Kroger objects to Columbia's improper cost of service study that utilized inappropriate inputs and the resulting increased charges to customers. Columbia's cost of service study will result in increased costs to customers that have not been justified.

Furthermore, as discussed above, Staff rejected Columbia's proposed cost of service study. Therefore, Staff recommended "that the COSS model needs to be rerun to include Staff's recommendations regarding rate class breakpoint and cost to serve."[48] However, without an accurate cost of service study, Kroger cannot make specific recommendations regarding class allocation or rate design elements based on the cost of service study. Therefore, Kroger objects to the Application to the extent it fails to include a reasonable cost of service study, and to the extent Columbia has not yet provided an updated cost of service study. Furthermore, Kroger reserves its right to object to any updated cost of service study or findings based thereon.

B. Kroger Objects to Columbia's Application that Fails to Propose Meaningful Revenue Caps And Limitations for Rider IRP and Rider CEP.

Revenue caps on distribution investment riders help to protect customers against unknown and unreasonable charges by limiting the amount that utilities can collect from customers. The implementation of this protection mechanism encourages utilities to be selective with their projects and prioritize needed investments. Rider IRP and Rider CEP as proposed by Columbia do not have any meaningful revenue caps on the collection of costs from customers. Columbia's proposal should have included annual caps that are low enough to meaningfully limit the capital expenditures Columbia proposes to recover in order to protect customers. Moreover, the

[48] Staff Report at 38.

Application should have proposed an end date to Rider IRP and Rider CEP. If, upon the expiration of Rider IRP and Rider CEP, Columbia still believed the Riders are necessary, it could initiate a subsequent proceeding to demonstrate its need to the Commission. That way, customers are protected from being subjected to a rider that never expires, and Columbia is not prohibited from continuing collection under the rider if it is able to demonstrate a need to do so.

Moreover, Kroger objects to Columbia's proposal to defer amounts in excess of the caps. A rate cap that simply allows Columbia to defer, with carrying costs, excessive and unnecessary expenses for future recovery is an illusory protection for ratepayers.

Similarly, Kroger objects to the extent that Columbia has failed to demonstrate that Rider CEP and Rider IRP should be extended for additional five-year periods. Customers should not be subjected to a never-ending rider that can capture deferred costs beyond so-called rate caps in the future. Allowing Columbia to defer these costs indefinitely, with carrying costs, will only result in increased costs to consumers. Therefore, Columbia should justify the continued necessity of the Rider IRP and Rider CEP.

C. Kroger Objects to the Application's Unjust And Unreasonable Rate Of Return.

Columbia's Application proposes an embedded rate of return that is excessive given that Columbia is a distribution utility and given the nature of Rider IRP and Rider CEP. Columbia proposes using the same excessive rate of return for Rider IRP and Rider CEP as it does for its base distribution rates. Both Riders, along with other riders for which Columbia charges customers, guarantees Columbia timely, dollar-for-dollar cost recovery for its investments. As such, Columbia's financial risk as a gas distribution utility with guaranteed and timely cost recovery is minimal.

Kroger also has concerns with the excessive proposed rate of return embedded in Rider CEP, Rider IRP, and other riders. As such, the Commission should reject any proposed rate of return that does not consider the minimal risk to Columbia associated with cost recovery for the distribution investments. Columbia's embedded rate of return is unjust and unreasonable and should be adjusted downward.

D. Kroger Objects to the Creation and Establishment of New Riders in the Application.

Columbia requests authority to establish a Federally Mandated Investment Rider, a Regulatory Assessment Rider, Federal/State Tax Reform Rider, and Carbon Reduction Rider.[49] As recommended by Staff, Kroger also recommends that the Commission reject Columbia's requests to establish a Federally Mandated Investment Rider, a Regulatory Assessment Rider, Federal/State Tax Reform Rider, or Carbon Reduction Rider. Commission Staff properly recommended that the Commission reject Columbia's requests to establish a Federally Mandated Investment Rider, a Regulatory Assessment Rider, Federal/State Tax Reform Rider, or Carbon Reduction Rider from inclusion as part of Columbia's alternative rate plan.[50] Commission Staff instead recommended the Carbon Reduction Rider be included as part of the unregulated optional services tariff.[51]

Columbia failed to satisfy its burden to demonstrate that these additional charges are reasonable. Columbia failed to outline the actual investments to be recovered under Rider FMI in order to make federally and state-mandated investments to comply with the Pipeline and Hazardous Materials Safety Administration "Mega Rule."[52] Nor does Columbia explain why it is

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[49] Staff Report at 47-51

[50] *Id*.

[51] *Id.*

[52] Application, Exhibit A (Detailed Alternative Rate Plan) at 21.

necessary to establish the Federal/State Tax Reform Rider as "a placeholder rider."[53] Columbia's customers already pay a significant portion of their bills in the form of guaranteed-recovery riders. Columbia should properly demonstrate a basis of need before implementing any new riders.

E. Kroger Objects to Columbia's continuation and expansion of its DSM program.

Kroger objections to the continuation and expansion of Columbia's DSM program as proposed in its Application as Columbia has failed to meet its burden to demonstrate that such program is just and reasonable. Additionally, funding for the DSM program should not be expanded and increased cost recovery for the DSM program should not be collected through Rider DSM at the 2022 levels (over $35 million). Kroger also objects to Columbia's request to include in its DSM program the continuation of the Company's shared savings incentive program. As the Commission has concluded for other utilities, such incentives are not appropriate.

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[53] Application, Application of Columbia Gas of Ohio, Inc. for Authority to Increase Rates at 4.

IV. CONCLUSION

Kroger respectfully submits these Objections to the Staff Report in this proceeding, which frame the major issues in the case, and looks forward to a full discussion of these issues presented herein with Staff, Columbia, and other stakeholders as this proceeding continues.

Respectfully submitted,

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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 also is being served via electronic mail on May 6, 2022 upon the parties listed below.

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