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

REPLY BRIEF OF OHIO PARTNERS FOR AFFORDABLE ENERGY[1]

I. Introduction

Ohio Partners for Affordable Energy ("OPAE") filed a timely Initial Brief in this matter along with Columbia Gas of Ohio, Inc. ("Columbia"), Industrial Energy Users – Ohio ("IEU"), Office of the Ohio Consumers' Counsel ("OCC"), Retail Energy Supply Association ("RESA"), Interstate Gas Supply, Inc. ("IGS"), Ohio Manufacturers' Association Energy Group ("OMA"), the Kroger Co. ("Kroger"), Ohio Energy Group ("OEG"), Staff ("Staff") of the Public Utilities

[1] This Brief was originally due on Friday December 23, 2022. However, it is being filed on Tuesday, December 27, 2022, in accordance with the December 22, 2022, Entry in Pub. Util. Comm. Case No. 22-0092 which stated that the Commission offices were to be closed on Friday December 23, 2022, due to severe weather and all December 23, 2022, due dates would be extended to the next day that was not a Saturday, Sunday, or holiday. Because Christmas fell on a Sunday this year it was observed on Monday December 26, 2022. Therefore, Tuesday, December 27, 2022, is the next business day after Friday, December 23, 2022.

Commission of Ohio ("Commission") (collectively, the "Signatory Parties"), Citizens Utility Board of Ohio ("Cub"), and Environmental Law and Policy Center ("ELPC").

Many of the arguments made by the Signatory Parties were addressed in OPAE's Initial Brief and, in the interest of efficiency, OPAE will not replough that ground in this Reply. OPAE does not dispute that the Stipulation, as proposed, contains at least two benefits for customers through the elimination of compounding interest on late charges and making it easier for customers to opt out of having their personal information released to energy marketers. And if that was the total change wrought by the Stipulation, OPAE would likely not oppose it. However, as the Commission knows, the Stipulation must be judged in its entirety and from that whole a determination should be made whether it is a net benefit to Ohio energy customers.

OPAE objects to the Stipulation, in part, because many of the other claimed benefits are illusory or provide no benefit at all and therefore the Stipulation, as a package, does not benefit customers. Further, the Stipulation violates several important regulatory principles and does not align with codified state policy – such as policies that support the benefits of reduced demand. For those reasons, the Stipulation cannot be approved without modification.

I. The Stipulation should be weighed against Columbia's current rates and tariffs not Columbia's Application.

Signatory Parties argue that the Stipulation contains more benefits to the public than the Application and, for that reason, it benefits the public.[2] However, that argument is a red herring. It lacks substance because the starting point of that comparison, the Application, is not proper. This is because the Application was never approved.

[2] Staff Initial Brief pp. 8-14; Columbia Brief pp. 9-14; OMA and Kroger Joint Brief pp. 8-10; OEG Initial Brief pp. 3-4; IEU Initial Brief at pp. 2-3; OCC Initial Brief at pp. 7-11.

That argument is necessarily and incorrectly founded on the premise that the Application would have been approved as submitted and therefore any reduction in harm to the public that was originally proposed qualifies as a net benefit. The argument then goes that the Stipulation, as compared to the Application, is beneficial. That is simply not the case. The Stipulating Parties ask this Commission to treat Columbia' initial demands as a reasonable starting point for judging the Stipulation. Such course does not provide an accurate portrayal of the Stipulation's benefits. Instead, the Stipulation must be compared to Columbia's current rates and tariffs.

The pages cited in FN 1 contain numerous examples in Signatory Parties' Initial Briefs comparing the Stipulation to the Application, all of which were previously addressed in OPAE's Initial Brief. OEG's Initial Brief states "[i]n the absence of the Stipulation, these benefits to customers may not be realized."[3] The use of "may" in that statement highlights the problem with this reasoning – Signatory Parties do not know what would happen in a fully litigated case. Therefore, they cannot claim that mere reductions in the Company's ask constitute benefits. In fact, the inverse could also be true. The Application could have been rejected outright, and therefore any increase in the Stipulation above current rates would be a net detriment to customers. That flimsy logic cannot be the basis for the Commission's decision in this matter – or any matter.

Columbia's application is its litigation position and should not be viewed as preapproved. The Signatory Parties' approach of comparing what was originally asked for by the Company versus what is actually being agreed to in the Stipulation does not demonstrate any actual benefits and undermines the entire settlement process. Only comparisons of what the Stipulation

[3] OEG Initial Brief p. 4.

proposes versus what is currently approved by the Commission are appropriate to determine what true benefits the Stipulation holds for customers.

The Commission should reject these disingenuous comparisons and review the Stipulation compared to what is currently authorized by the Commission to determine if the Stipulation, as a package, benefits customers. It will be clear to the Commission that, absent modification, the Stipulation, as a package, does not benefit customers.

II. The reduction of non-low-income DSM programs and the WarmChoice budget are a detriment to customers such that the harm outweighs the minimal benefits shown in the Stipulation.

The Stipulation harms customers by limiting the WarmChoice budget and raiding it with new and unnecessary administrative costs. OPAE provided detailed analysis of the harm caused by those actions in its Initial Brief. However, discussion of the harm from the loss of the non-low-income DSM programs combined with a constrained WarmChoice budget must be reiterated. To properly explain and quantify the harm, a little background is necessary.

As Columbia previously stated in Case No. 19-1940-GA-RDR,

> Ohio law recognizes the "consumer interest in energy efficiency and energy conservation" and announces that it is state policy to "[p]romote an alignment of natural gas company interests" with consumers' interests in DSM.[9] Ohio law also directs the Commission to "initiate programs that will promote and encourage conservation of energy and a reduction in the growth rate of energy consumption, promote economic efficiencies, and take into account long-run incremental costs."[10]
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> The Commission, too, "has long recognized that conservation and efficiency should be an integral part of natural gas policy."[11] The Commission has consistently supported gas industry DSM programs that produce demonstrable benefits, reasonably balance total costs, and minimize the impact to non-participants are consistent with Ohio's economic and energy policy objectives.[12] Indeed, three (3) of the four (4) major gas utilities in Ohio currently have some form of a

natural gas DSM Program[13] and historically all four (4) of the major gas utilities have had a natural gas DSM Program.[14]

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In the past, Columbia has been committed to helping its customers use natural gas more efficiently by implementing and supporting effective DSM program. Columbia's DSM program was designed to:

- Provide cost-effective, customer-oriented energy efficiency services for Columbia's residential and commercial customers.
- Improve customer health, safety, comfort, and productivity.
- Reduce wasteful and inefficient use of natural gas and other resources, such as water and electricity.
- Increase customers' financial resources by reducing natural gas bills.
- Lower customers' carbon dioxide emissions.
- Support job creation and economic development.
- Help the Commission comply with R.C. 4929.02 and R.C. 4905.70.[5]

And, historically, Columbia's DSM programs have achieved those goals.

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[4] Pub. Util. Comm. Case No. 19-1940-GA-RDR, Columbia Merit Brief pp. 3-4. (Citing [9] R.C. § 4929.02(A)(12); *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., Opinion and Order at 3, 62. ("DSM Program Extension Case."); [10] R.C. § 4905.70; DSM Program Extension Case, Opinion and Order at 3, 62.; [11] DSM Program Extension Case, Opinion and Order at 63, citing *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Service*, Case No. 07-829-GA-AIR, Opinion and Order at 22-23 (Oct. 15, 2008).; [12] DSM Program Extension Case, Opinion and Order at 54, citing *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 051444-GA-UNC, Opinion and Order (Sept. 13, 2006) ("Vectren 2005 DSM Case"); *In re Dominion East Ohio*, Case No. 07-829-GA-AIR, et al.. Opinion and Order (Oct. 15, 2008) at 22-23; *In re The Cincinnati Gas and Electric Co.*, Case No. 95-656-GA-AIR, Opinion and Order (Dec. 12, 1996); 2008 Distribution Rate Case, Opinion and Order (Dec. 3, 2008) at 10; Vectren 2005 DSM Case, Supplemental Opinion and Order (June 27, 2007); *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 14-747-GA-RDR, Finding and Order (May 28, 2014).; [13] *See In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval to Continue Demand Side Management Program for its Residential, Commercial, and Industrial Customers*, Case No. 19-2084-GA-UNC; *See also In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Service*, Case Nos. 07-829-GA-AIR, et al., Opinion and Order at 7 (October 15, 2008).; [14] *In the Matter of the Complaint of Suburban Natural Gas Company v. Columbia Gas of Ohio, Inc.*, Case No. 17-2168-GA-CSS, Opinion and Order at 28-29, FN 12 (April 10, 2019).

[5] Columbia Exhibit 1, Application to Continue its Demand Side Management Program p. 2.

In addition to other benefits such as lower customer arrearages and bad debt, Columbia's DSM Program, historically, provided Columbia's customers and society with multiple other benefits beyond energy and utility bill savings. For instance, lifetime carbon dioxide reduction for Columbia's originally proposed DSM Program is estimated to be over 3,400,000 tons, the equivalent of taking 675,000 automobiles off the road for one year or planting more than 3,800,000 acres of trees.[6] The energy efficiency measures undertaken through Columbia's DSM programs since the inception of the WarmChoice program in 1987, and the creation of the first DSM Program in 2008, will save customers over 113.1 Bcf of natural gas over the life of the measures. This equates to an estimated total savings of approximately $780 million.[7]

OCC, in its Initial Brief, cites to the elimination of these programs as a benefit to customers.[8] OCC focuses on the elimination of $119 million in Columbia charges (between the costs of the program and shared savings) as a benefit for customers with no regard for the actual benefits lost from eliminating these programs. On the whole, those lost benefits, when compared to the new proposed benefits, represent a net negative for customers. This problem is exacerbated by current inflationary pressures. Customers need the ability to control their usage now more than ever.

Staff's Initial Brief highlights OCC's participation as a Signatory Party stating, "[t]he benefits for customers were sufficiently significant to lead OCC to take the unusual step of becoming a Signatory Party."[9] First and foremost, OPAE would note that a party who repeatedly refuses to join settlements who suddenly changes its stripes, does not automatically imbue a

[6] Id.
[7] Id. p. 3.
[8] OCC Initial Brief p. 12.
[9] Staff Initial Brief p. 10.

settlement with additional validity. The facts of each settlement are different and the reasoning for joining or opposing a settlement must be examined.

To that end, it is important to examine OCC's participation in this settlement, especially when, if approved as proposed, it will lead to such drastic increases in charges for residential customers. For example, in the recently approved Duke rate case, OCC called the proposed return on equity of 9.5% a "generous profit"[10] yet in this case OCC agrees to a higher return on equity of 9.6%. Similarly, OCC balked at 92.4% of the rate increase going to residential customers in Duke[11], but in this case has agreed to an allocation of up to 94.596% to the Small General Service class (which includes residential consumers).[12] Further, OCC called for a 6.5% rate of return in Duke[13] but agrees to a 7.08% rate of return in this case. What is OCC gaining from joining the Stipulation that is worth agreeing to significantly higher increases for residential customers than those it vociferously attacked in the Duke case?

The answer lies in the elimination of the non-low-income DSM programs and the constraint of WarmChoice. A review of prior cases illustrates a prolonged and continued attack on DSM programs by the OCC.[14] Focusing on Columbia cases, OCC originally supported Columbia's energy efficiency and DSM programs, "Columbia's initial DSM Program was cooperatively developed by Columbia, Staff, OCC and other interested stakeholders to include comprehensive energy efficiency programs for residential and commercial customers."[15] The Commission approved an extension in 2011 and again in 2016, however, in 2016 OCC began to

[10] Case No. 21-887-EL-AIR, OCC Initial Brief p. 5.
[11] Id.
[12] Joint Exhibit 1 p. 3.
[13] Case No. 21-887-EL-AIR, OCC Initial Brief p. 11.
[14] Pub. Util. Comm. Case No. 19-1940-GA-RDR ¶52 (Dec. 2, 2020); Pub. Util. Comm. Case No. 20-637-GA-UNC ¶46 (May 20, 2020); Pub. Util. Comm. Case No. 20-649-GA-UNC ¶46 (June 3, 2020); Pub. Util. Comm. Case No. 19-2084-GA-UNC ¶66 (Feb. 24, 2021).
[15] DSM Program Extension Case, Opinion and Order at 4.

object to DSM.[16] In 2020, OCC used the COVID-19 Pandemic to attempt to repurpose weatherization funds to bill payment assistance.[17] Again in 2020, OCC, in Columbia's IRP and DSM Rider adjustment case, attempted to move funds from weatherization to bill payment assistance and terminate the non-low-income DSM programs.[18] An OCC Witness in that case event testified that it was OCC's desire to permanently end Columbia's DSM program.[19]

In each of these cases, Columbia zealously opposed OCC's position. Going so far as to request the Commission "reject OCC's manipulation of the COVID-19 pandemic and inappropriate use of [the Rider] case to accomplish a policy goal it could not accomplish three years ago."[20] And, to the credit of the Commission, it rejected OCC's attempts to terminate the programs or move weatherization funds to bill payment assistance.[21] The Commission held that "DSM programs involve long-term energy conservation benefits that may accrue over decades"[22] and that "well-designed and cost-effective DSM programs are consistent with Ohio's economic and energy policy objectives."[23]

A review of the Stipulation demonstrates that several Signatory Parties, OMA, IEU, and Kroger, have taken no position on the elimination of the non-low-income DSM rider.[24] Staff noted in its Initial Brief regarding the DSM programs that Staff "generally supports such programs, and did so in its Staff Report in this case, although it did not recommend any increase in the DSM program budget."[25] Columbia has historically been a staunch supporter of DSM and

[16] Id. at pp. 4; 26-27.
[17] Case No. 20-637-GA-UNC, OCC's Comments for Additional Consumer Protections.
[18] Case No. 19-1940-GA-RDR, Columbia Initial Brief pp. 5-11.
[19] Case No. 19-1940-GA-RDR, Direct Testimony of Kenneth Costello at 3.
[20] Case No. 19-1940-GA-RDR, Columbia Initial Brief p. 5.
[21] Case No. 19-1940-GA-RDR, Opinion and Order pp. 24-27.
[22] Id. p. 25.
[23] Id. p. 27.
[24] Joint Exhibit 1 FN15.
[25] Staff Initial Brief p. 11.

included expanded programs in its original Application. Given the foregoing, the Commission must ask itself if the changes and raiding of those programs is in the public interest.

As OMA and Kroger noted in their Initial Brief, the Commission has considered its own precedent and favored stipulations that follow that precedent.[26] In this case, the Stipulation will eliminate programs that have been repeatedly approved and found to be unequivocally beneficial to customers by the Commission for well over a decade. The loss of these programs and their benefits to customers, combined with the high rates, including high fixed rates, in the Stipulation means the Stipulation as a package fails to benefit customers and the public interest.

Further, the loss of the non-low-income DSM programs would be unjust, unreasonable, and inconsistent with R.C. 4905.70's mandate to the Commission to encourage conservation and the reduction in the growth rate of energy consumption. It would also violate state policy codified in R.C. 4929.02(A)(4) and (A)(12) to encourage and market access to DSM services and promote alignment of natural gas company interest with consumer interest in energy efficiency and energy conservation. Therefore, OPAE respectfully requests the Commission stick to its previous precedent in numerous recent gas cases, both Columbia and others, and either reject the Stipulation for eliminating the non-low-income DSM programs or modify it to reinstate the programs and the expanded budgets for WarmChoice. Such modification would be consistent with the Commission's prior recognition of the vital nature of DSM programs for natural gas customers.

[26] OMA and Kroger Joint Initial Brief p. 10 (Citing *In the Matter of the Application of The East Ohio Gas Company dba Dominion Energy Ohio for Approval of an Alternative Form of Regulation to Establish a Capital Expenditure Program Rider Mechanism*, Case No. 19- 468-GA-ALT, Opinion and Order at ¶ 79 (Dec. 30, 2020) (Where the stipulating parties had "presented adequate justification for the Commission to uphold the precedent" and "no argument presented by opposing Intervenors [convinced] the Commission to change or revise this practice," the Commission adopted the stipulation.).

III. Conclusion

The Stipulation, as a package, does not benefit ratepayers or the public interest, violates important regulatory principles, state law, fails to achieve state policies, and results in unjust and unreasonable rate for Columbia's customers, specifically their low-income customers. OPAE respectfully requests that the Commission make the modifications outlined above and in OPAE's Initial Brief to ensure the Stipulation is just and reasonable and compliant with Ohio laws and regulatory principles.

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served on all parties of record via the DIS system on December 23, 2022. A courtesy copy has also been sent to the individuals listed below.

/s/ *Robert Dove*

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Summary: Reply Brief electronically filed by Mr. Robert Dove on behalf of Ohio Partners for Affordable Energy