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Re Columbia Gas of Ohio, Inc.
Case No. 08-72-GA-AIR
Case Nos. 08-73-GA-ALT, 08-74-GA-AAM
Case No. 08-75-GA-AAM

Ohio Public Utilities Commission
December 3, 2008

APPEARANCES: Stephen B. Seiple, Daniel A. Creekmur, Mark R. Kempic, and Kenneth W. Chrisman, 200 Civic Center Drive, P. O. Box 117, Columbus, Ohio 43216-0117, and Carpenter Lipps & Leland LLP, by Angela M. Paul Whitfield, Thomas R. Bricker, and David J. Leland, 280 North High Street, Suite 1300, Columbus, Ohio 43215, on behalf of Columbia Gas of Ohio, Inc. Sheryl Creed Maxfield, First Assistant Attorney General of the State of Ohio, by Duane W. Luckey, Section Chief, and Anne L. Hammerstein and Sarah J. Parrot, Assistant Attorneys General, 180 East Broad Street, Columbus, Ohio 43215-3793, on behalf of the staff of the Public Utilities Commission of Ohio. Janine L. Migden-Ostrander, Ohio Consumers' Counsel, by Larry S. Sauer, Joseph P. Serio, and Michael E. Idzkowski, Assistant Consumers' Counsel, 10 West Broad Street, Columbus, Ohio 43215-3485, on behalf of the residential utility consumers of Columbia Gas of Ohio, Inc. Boehm, Kurtz, and Lowery, by David F. Boehm and Michael L. Kurtz, 36 East Seventh Street, Suite 1510, Cincinnati, Ohio 45202, on behalf of the Ohio Energy Group. Ohio State Legal Services Association, by Michael R. Smalz and Joseph V. Maskovyak, 555 Buttles Avenue, Columbus, Ohio 43215-1137, on behalf of Appalachian People's Action Coalition. John M. Dosker, 1077 Celestial Street, Suite 110, Cincinnati, Ohio 45202-1629, on behalf of Stand Energy Corporation. Chester, Wilcox & Saxbe, LLP, by John W. Bentine and Mark S. Yurick, 65 East State Street, Suite 1000, Columbus, Ohio 43215-4213, on behalf of Knox Energy Cooperative Association, Inc. Colleen L. Mooney and David C. Reinbolt, 231 West Lima Street, P.O. Box 1793, Findlay, Ohio 45839-1793, on behalf of Ohio Partners for Affordable Energy. Bell & Royer Co., LPA, by Barth E. Royer, 33 South Grant Avenue, Columbus, Ohio 43215-3927, on behalf of Dominion Retail, Inc. Vorys, Sater, Seymour & Pease, LLP, by M. Howard Petricoff and Stephen M. Howard, 52 East Gay Street, Columbus, Ohio 43216-1008, on behalf of Ohio Gas Marketers Group. Vorys, Sater, Seymour & Pease, LLP, by William S. Newcomb, Jr., 52 East Gay Street, Columbus, Ohio 43216-1008, on behalf of North Coast Transmission Company, LLC. Vorys, Sater, Seymour & Pease, LLP, by W. Jonathan Airey and Gregory D. Russell, 52 East Gay Street, Columbus, Ohio 43216-1008, on behalf of Honda of America Mfg., Inc. Leslie A. Kovacik and Kerry Bruce, 420 Madison Avenue, Suite 100, Toledo, Ohio 43604-1219, counsel for the City of Toledo; Lance M. Keiffer, Assistant Prosecuting Attorney, 711 Adams Street, Toledo, Ohio 43624-1680, counsel for Lucas County; Sheilah H. McAdams, Marsh & McAdams, 204 West Wayne Street, Maumee, Ohio 43537, Law Director for the City of Maumee; Brian J. Ballenger, Ballenger & Moore, 3401 Woodville Road, Suite C, Toledo, Ohio 43619, Law Director for the City of Norwood; Paul S. Goldberg, 6800 West Central Avenue, Toledo, Ohio 43617-1135, Law Director for the City of Oregon; James E. Moan, 4930 Holland-Sylvania Road, Sylvania, Ohio 43560, Law Director for the City of Sylvania; Peter D. Gwyn, 110 West Second Street, Perrysburg, Ohio 43551, Law Director for the City of Perrysburg; Paul Skaff, Leatherman, Witzler, Dombey & Hart, 353 Elm Street, Perrysburg, Ohio 43551, Solicitor for the Village of Holland; and Thomas R. Hays, 3315 Centennial Road, Sylvania, Ohio 43560, Solicitor for Lake Township, on behalf of the Northwest Ohio Aggregation Coalition. Larry Gearhardt, 280 North High Street, P.O. Box 182383, Columbus, Ohio 43218-2383, on behalf of the Ohio Farm Bureau Federation.

Before Schriber, chairman, and Centolella, Fergus, Lemmie, and Roberto, Commissioners.

BY THE COMMISSION:

OPINION AND ORDER

***1** The Commission, considering the above-entitled applications, the testimony, the applicable law, the proposed stipulation, and other evidence of record, and being otherwise fully advised, hereby issues its opinion and order.

OPINION:

I. *HISTORY OF THE PROCEEDINGS*:

The applicant, Columbia Gas of Ohio, Inc. (Columbia, applicant, or company), is a natural gas company as defined by Section 4905.03(A)(6), Revised Code, and a public utility as defined by Section 4905.02, Revised Code. Columbia, a subsidiary of NiSource Inc., is the largest local gas distribution company in Ohio and serves approximately 1.4 million customers in 60 of Ohio's 88 counties (Staff Ex. 1, at 1). Applicant's current base rates were established by the Commission in Case No. 94-987-GA-AIR (September 29, 1994).

On February 1, 2008, Columbia filed and served its notice of intent to file an application to increase its rates for gas distribution service in its entire service area and of its intent to request authority to implement an alternative rate plan. This notice is required by Section 4909.43(B), Revised Code, and Rule 4901-7-01, Ohio Administrative Code (O.A.C.). As part of its prefiling notification, the company requested that the 12 months ending September 30, 2008, be established at the test period and that December 31, 2007, be fixed as the date certain. Columbia also requested waiver of certain of the Standard Filing Requirements contained in Rule 4901-7-01, O.A.C. By entry dated February 27, 2008, the Commission approved the proposed test period and date certain. The Commission also granted Columbia's request to waive certain of the standard filing requirements for various financial and informational data.

On March 3, 2008, Columbia filed applications for approval of an increase in gas distribution rates (08-72), for approval of an alternative rate plan for its gas distribution service (08-73), for approval of an application to modify certain accounting methods (08-74), and for authority to revise its depreciation accrual rates (08-75). Columbia requested a rate increase of $87,805,000. By entry dated April 16, 2008, the Commission accepted for filing the company's application to increase rates as of March 3, 2008, ordered publication of the legal notice of the filing of the application, and approved Blue Ridge Consulting Services, Inc. (Blue Ridge) to assist the staff in its audit and review of the company's applications. The publication of legal notice of the filing of the application, as required by Section 4909.19, Revised Code, was performed (see entries dated July 2, and 23, 2008, and Columbia Ex. 2).

The Commission granted motions to intervene filed by the following: Ohio Consumers' Counsel (OCC), Ohio Energy Group, Appalachian People's Action Coalition, Stand Energy Corporation, Knox Energy Cooperative Association, Inc., Ohio Partners for Affordable Energy (OPAE), Dominion Retail, Inc., Ohio Gas Marketers Group, North Coast Transmission Company, LLC., Honda of America Mfg., Inc., the Northwest Ohio Aggregation Coalition, and the Ohio Farm Bureau Federation. Intervention was also granted to Industrial Energy Users-Ohio (IEU-Ohio). On October 22, 2008, IEU-Ohio filed notice of its intent to withdraw from the cases. Withdrawal shall be granted.

***2** In accordance with the provisions of Section 4909.19, Revised Code, the Commission's staff, with the assistance of Blue Ridge, conducted an investigation of the matters set forth in Columbia's applications in 08-72, 08-73, 08-74, and 08-75. The staff filed its written report of investigation on August 21, 2008. On the same day, Blue Ridge filed, under seal, its Report on Conclusions and Recommendations on the Financial Audit of Columbia. Blue Ridge also filed a redacted version of its report in the public record. Pursuant to Section 4909.19, Revised Code, objections to the staff report are to be filed within 30 days of the filing of the report. Objections were timely filed on September 22, 2008, by Columbia; the Ohio Gas Marketers' Group; the office of the Ohio Consumers' Counsel; Honda of America Mfg., Inc.; Knox Energy Cooperative Association, Inc.; and jointly by Appalachian Peoples Action Coalition and Ohio Partners for Affordable Energy. On September 26, 2008, objections were filed out of time by Stand Energy Corporation. The late filed objections will not be considered in these cases. Pursuant to entry issued August 28, 2008, a prehearing conference was held on September 25, 2008.

By entry issued October 10, 2008, local public hearings were scheduled in the following cities: Salem, Springfield, Mansfield, Columbus, Athens, Toledo, Parma, and Lorain. The local public hearings commenced on October 28 and concluded on November 13, 2008. The entry dated October 10, 2008, required that Columbia publish notice of the local public

hearings in newspapers of general circulation in the affected service territory once each week for two consecutive weeks prior to the scheduled date of the first local hearing. On November 21, 2008, Columbia filed the proofs of publication of the notice of the local public hearings. Columbia noted in its filing that the *Perry County Tribune* only published the prescribed notice once. Columbia requests that, due to the small number of Columbia customers in Perry County (4,800), the fact that the *Perry County Tribune* did correctly publish the notice one time, and because the notice was correctly published in adjacent counties by newspapers with subscribers in Perry County, the Commission find that the publication for Perry County was in substantial compliance with the publication requirement.Section 4905.09, Revised Code, provides in relevant part that substantial compliance with the requirements of Chapter 4903, Revised Code (publication of notice of the local public hearings is required by Section 4903.083, Revised Code), is sufficient to give effect to the acts of the Commission. There was no opposition to Columbia's request. The Commission finds that there was substantial compliance with the publication requirement for Perry County.

By entry dated August 28, 2008, the Commission scheduled the evidentiary hearing to commence on October 14, 2008. On October 10, 2008, Columbia filed a notice in the case that it had reached an agreement in principle with several parties on many of the major issues in the case. At the commencement of the hearing on October 14, 2008, the attorney examiner took note of Columbia's filed notice, and continued the hearing to allow the parties additional time to resolve the issues. A joint stipulation and recommendation (stipulation, Joint Exhibit 1) was filed on October 24, 2008. The stipulation was signed by Columbia, Commission staff, OCC, Ohio Energy Group, Knox Energy Cooperative Association, OPAE, Ohio Gas Marketers Group, Honda of America Mfg., and the Ohio Farm Bureau Federation. The remaining parties do not oppose the stipulation (Staff Ex. 13 at 2; Columbia Ex. 34 at 6).

II. *SUMMARY OF THE EVIDENCE AND DISCUSSION*:

A. *Summary of the Local Public Hearings*

***3** Eight local public hearings were held in order to allow Columbia's customers the opportunity to express their opinions regarding the issues in these proceedings, Forty-two persons testified at the local public hearings. Fifteen persons opposed the proposed increase. Some opposed the increase because they are or represent senior citizens or they are currently on low incomes. Others did not approve of Columbia's proposed straight fixed variable rate design and others did not approve of Columbia's plan to take over repair of risers and service lines. Three witnesses provided comments unrelated to the issues in the case.

Twenty-four witnesses spoke in favor of Columbia or its applications. Several witnesses representing agencies or companies related to economic development spoke in favor of Columbia's application because it will result in replacement of aging infrastructure and/or the related construction projects will create jobs. Others supported Columbia because of the funding to be made available to customers who need help paying their bills. Approximately 11 witnesses who testified in favor mentioned Columbia's WarmChoice program and or Columbia's provision of funding for demand-side management and energy efficiency programs, while a couple mentioned that, if the stipulation is approved, Columbia's shareholders will provide funds to those in need. One witness testified that Columbia provides volunteers to assist in its projects.

The Commission is pleased that Columbia appears to be a good corporate citizen in the communities that it serves. The Commission also recognizes that Columbia shareholders and workers apparently do contribute financial resources and volunteers to worthwhile community projects. For example, as will be discussed below, Columbia intends for its shareholders to provide $1.85 million to fund low-income assistance programs from 2008 through 2013 and up to $1.15 million to support a monthly customer charge credit program to mitigate the impact of Columbia's new rate design program upon low-use, low-income customers. On the other hand, pursuant to the terms of the stipulation, Columbia's customers will be providing $7.1 million to continue to finance what has been referred to as Columbia's WarmChoice weatherization program and approximately $8.3 million per year for Columbia's proposed demand-side management and energy efficiency programs. While the Commission is pleased that Columbia is helping to manage such projects, the Commission would note that some of the assistance projects mentioned by witnesses are funded

directly by ratepayers, Columbia has an obligation to ensure that agencies and individuals benefitting from such projects know the correct source of funds for the projects.

B. *Summary of the Proposed Stipulation*

As noted above, certain of the parties (stipulating parties) entered into a stipulation that was filed on October 24, 2008. The only issues not resolved in the stipulation are the rate design issues associated with the Small General Service Class, which will be discussed below. Pursuant to the stipulation, the stipulating parties agree, *inter alia*, that:

***4** (1) Columbia shall receive a revenue increase of $47,143,100, resulting in Columbia being entitled to collect total annual revenues of $1,487,051,000.

(2) Columbia's base rates resulting from the stipulation will not include any amount for gas storage carrying costs. After the issuance of a Commission order adopting the stipulation, Columbia will recover its actual gas storage carrying costs through its gas cost recovery (GCR) mechanism, based upon the process set forth within the stipulation. The stipulating parties agree that the Commission should:

(a) Remove the carrying charges associated with actual gas storage from base rates;

(b) Permit Columbia to recover its actual gas storage carrying costs through its GCR mechanism;

(c) Approve the methodology for the calculation of the storage carrying costs for inclusion in Columbia's GCR filings. Some, but not all of the parties to the stipulation, support the recommendation that carrying charges accrue at an annual rate of 10.95 percent. This rate may be reviewed during the company's next GCR case in which gas storage carrying costs are reviewed;

(d) Find that such an adjustment to Columbia's rates is not an increase in base rates; and

(e) Approve the recovery of such costs in Columbia's annual GCR audit cases, provided that Columbia files an application with the Commission no later than February 1, 2009, seeking approval for the procurement of its commodity requirements through an auction process in accordance with the Commission's Order in Case Nos. 04-221-GA-GCR et al.

(3) After the issuance of a Commission order adopting the stipulation, Columbia will recover the PUCO and OCC regulatory assessments through its GCR mechanism. The stipulating parties agree the Commission should:

(a) Approve this methodology for calculation of regulatory assessments to be recovered through the GCR;

(b) Find such an adjustment to Columbia's rates not an increase in base rates; and

(c) Approve the recovery of such costs in Columbia's next GCR filing following the Commission's order in this proceeding.

(4) The value of all of Columbia's property used and useful for the rendition of service to its customers, as of the approved date certain of December 31, 2007, is $1,028,445,000.

(5) Columbia is entitled to an overall rate of return of 8.12 percent. The stipulating parties agree that the corresponding return on equity is 10.39 percent. In agreeing upon this return on equity, the stipulating parties took into consideration the fact that investors may perceive Columbia to be less risky because of the alternative regulation provisions included in the stipulation and because of the levelized rate design proposed by Columbia and, accordingly, reduced Columbia's return on equity by 25 basis points to reflect this reduced risk perception.

(6) Columbia should be authorized to establish an Infrastructure Replacement Program Rider ('Rider IRP'). Rider IRP will provide for the recovery of costs incurred for:

***5** (a) The future maintenance, repair and replacement of customer-owned service lines that have been determined by Columbia to present an existing or probable hazard to persons and property, and the systematic replacement, over a period of approximately three years, of certain risers prone to failure if not properly assembled and installed. The replacement of customer-owned service lines and prone-to-failure risers was previously approved by the Commission in

its opinion and order dated April 9, 2008, in Case No. 07-478-GA-UNC;

(b) The replacement of cast iron, wrought iron, unprotected coated steel, and bare steel pipe in Columbia's distribution system, as well as Columbia's replacement of company-owned and customer-owned metallic service lines identified by Columbia during the replacement of all the above types of pipe (referred to as the Accelerated Mains Replacement Program or AMRP); and

(c) The installation, over approximately a five-year period, of Automatic Meter Reading Devices ('AMRD') on all residential and commercial meters served by Columbia.

Rider IRP shall be calculated using a rate of 10.95 percent (which represents the stipulated rate of return of 8.12 percent plus a tax gross-up factor of 2.84 percent). The IRP shall be in effect for the lesser of five years from the effective date of rates approved in this proceeding or until new rates become effective as a result of Columbia's filing of an application for an increase in rates pursuant to Section 4909.18, Revised Code, or Columbia's filing of a proposal to establish base rates pursuant to an alternative method of regulation pursuant to Section 4929.05, Revised Code. Rider IRP shall provide for the recovery of the return of and on the plant investment, inclusive of capitalized interest or post-in-service carrying costs charges, and depreciation expense and property taxes. Rider IRP shall also reflect the actual annual savings of operations and maintenance expense as an offset to the costs that are otherwise eligible for recovery through Rider IRP. Within 30 days of the Commission order adopting the stipulation, Columbia shall docket its initial Rider IRP prefiling notice. In years 2009 through 2012, Columbia shall docket its Rider IRP prefiling notice by November 30 of each year, with updated information filed by the following February 28. (The Commission directs Columbia to make such filings for Rider IRP, and the filings for Rider DSM discussed below, in a single new case each year.) Each year's prefiling notice will contain estimated schedules for the Rider IRP to become effective the following May 1. Staff will conduct an investigation of each annual Columbia filing and parties may file objections to the filings. If the staff determines that Columbia's application to increase Rider IRP is unjust or unreasonable, or if any other party files an objection that is not resolved by Columbia, an expedited hearing process will be established to allow the parties to present evidence to the Commission for final resolution. The Rider IRP rate that becomes effective May 1, 2009, for the Small General Service Class shall not exceed $1.10 per customer per month. The stipulating parties agreed to caps of $2.20, $3.20, $4.20, and $5.20 per customer per month for the subsequent four years. If during any year of the first four years of the five-year duration of Rider IRP Columbia's IRP costs would result in a Rider IRP rate that exceeds the Rider IRP caps described above, Columbia may defer on its books any costs that it is unable to recover through Rider IRP because the Rider IRP rate would otherwise exceed the specified cap. Such costs shall be deferred with carrying charges at an annual rate of 5.27 percent, representing Columbia's long-term debt rate. Columbia may include such deferred costs in any subsequent Rider IRP application during the five-year duration of Rider IRP as specified herein, and recover the deferred costs as long as the inclusion of the deferred costs does not cause Columbia to exceed the Rider IRP cap in the subsequent year in which the deferred costs are included in the Rider IRP adjustment filing. Any deferrals remaining at the end of the five-year period shall not be recoverable by Columbia. By no later than November 30, 2012, Columbia shall perform a study to assess the impact of the AMRP program on safety and reliability, the estimated costs and benefits resulting from acceleration of the pipeline replacement activity, and Columbia's ability to manage, oversee and inspect the AMRP program effectively and prudently. The study shall be provided to the stipulating parties and may be considered by the Commission in its review of any Columbia Rider IRP adjustment filing.

***6** (7) The revenue requirement set forth in the stipulation includes $7.1 million for the WarmChoice weatherization program. Current funding is authorized at $5.5 million per year. In addition, the stipulating parties recommend that Columbia be authorized to establish a Demand Side Management Rider ('Rider DSM') for the Small General Service Class of customers. Rider DSM will provide for the recovery of costs incurred in the implementation of DSM programs approved in the Commission's finding and order dated July 23, 2008, in Case No. 08-833-GA-UNC.(Company witness Brown testified that DSM funding will average $8.3 million per year from 2009 through 2011 [Columbia Ex. 33 at 8]). For the Rider DSM rates to become effective each May 1,

2010 through 2012, the procedure for the filing of Rider DSM adjustments is identical to the filing procedure applicable to Rider IRP, discussed above. Should Columbia's DSM stakeholder group determine that a continuation, modification, and/or expansion of the WarmChoice program and Columbia's DSM programs is reasonable and prudent, the stipulating parties agree that Columbia may file an application with the Commission, seeking authority to continue, modify, and/or expand Columbia's DSM programs and may also request authority to modify Rider DSM accordingly. However, the Parties agree that no such application may be filed until at least 18 months following the issuance of a Commission order adopting this stipulation.

(8) Over the next five winter heating seasons (2008-09 through 2012-13 winter heating seasons), Columbia will provide approximately $1,850,000, funded by Columbia shareholders, to establish and administer a customer assistance fund available to aid low income customers in the payment of bills when all other available funds have been exhausted. The anticipated yearly split of the funds is $600,000 for the 2008-09 winter heating season and $312,500 for each of the next four winter heating seasons. The customer assistance fund will be administered by OPAE.

(9) The depreciation accrual rates proposed by Columbia, as modified in the staff report, should be approved.

(10) Within 90 days of the issuance of a Commission order adopting the proposed stipulation, Columbia will:

(a) Bill any security deposits assessed to customers in three equal installments to be paid concurrently with the customers' monthly bills;

(b) By means of bill messages, bill inserts, and/or other means, provide customers with information to help them differentiate between authorized payment agents and unauthorized payment agents;

(c) Revise the information used by Columbia's call centers to assure that, if a customer needs to establish financial responsibility, Columbia fully informs the customer of all the available options for establishing financial responsibility, and permits customers to demonstrate financial responsibility by all methods provided for by Commission rule, other than the payment of a deposit;

(d) By means of bill messages, bill inserts, and/or other means, provide Percentage of Income Payment Plan (PIPP) customers with information about Columbia's PIPP arrearage crediting program;

*7 (e) Meet with staff to discuss implementation of staff's recommendation for revisions to the deposit provisions applicable to main line extensions set forth on Columbia tariff sheet number 9; and

(f) Meet with staff to discuss staff's recommendations for revisions to Columbia's Competitive Retail Natural Gas Service Tariffs.

(11) Columbia shall evaluate the feasibility of providing additional extended payment plans and extending service appointment hours into the evening. Columbia's feasibility evaluation shall be completed as soon as practicable, but no later than six months following the issuance of the Commission's order that adopts the proposed stipulation. The results of Columbia's feasibility study shall be provided to interested parties. The implementation of any of the items enumerated in this paragraph or the preceding paragraph may exceed, but shall not conflict with, the outcome of the rulemaking proceeding in Case No. 08-723-GA-ORD.

C. *Consideration of the Stipulation*

Rule 4901-1-30, O.A.C., authorizes parties to Commission proceedings to enter into stipulations. Although not binding on the Commission, the terms of such an agreement are accorded substantial weight. See, *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, at 125 (1992), citing *Akron v. Pub. Util Comm.*, 55 Ohio St.2d 155 (1978). This concept is particularly valid where the stipulation is unopposed by any party and resolves almost all of the issues presented in the proceeding in which it is offered.

The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. See, e.g., *Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (April 14, 1994); *Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT (March 30, 1004); *Ohio*

Edison Co., Case No. 91-698-EL-FOR et al. (December 30, 1993); *Cleoeland Electric Illum. Co.*, Case No. 88-170-EL-AIR (January 30, 1989); *Restatement of Accounts and Records (Zimmer Plant)*, Case No. 84-1187-EL-UNC (November 26, 1985). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

(1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?

(2) Does the settlement, as a package, benefit ratepayers and the public interest?

(3) Does the settlement package violate any important regulatory principle or practice?

The Ohio Supreme Court has endorsed the Commission's analysis using these criteria to resolve issues in a manner economical to ratepayers and public utilities. I *ndus. Energy Consumers of Ohio Power Co. v. Pub, Util Comm.*, 68 Ohio St.3d 547 (1994), (citing *Consumers' Counsel*, supra, at 126). The court stated in that case that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission (*Id.*).

***8** The signatory parties agree that the stipulation is supported by adequate data and information, represents a just and reasonable resolution of the issues that are proposed to be resolved by the stipulation in these proceedings, violates no regulatory principle, and is the product of lengthy, serious bargaining among knowledgeable and capable parties in a cooperative process undertaken by the parties to settle such contested issues (Jt. Ex. 1 at 3). Stephen E. Puican, Co-Chief of the Commission's Rates and Tariffs/Energy and Water Division, testified that the first criterion used to consider the reasonableness of a stipulation was met because settlement meetings were noticed to all parties, extensive negotiations occurred, and the stipulation represents a compromise of issues raised by parties with diverse interests. Mr. Puican contends that the stipulation benefits ratepayers and promotes the public interest because the agreed-upon level of increase in base rates is limited to 8.72 percent; programs are established for pipeline infrastructure replacement and the installation of automatic meter reading devices; and funding is provided for replacement of prone-to-fail risers, demand side management programs, and the maintenance, repair, and replacement of service lines. In addition, additional funds are provided for the WarmChoice program and to aid low income customers in the payment of bills. Mr. Puican stated that the stipulation does not violate any important regulatory principle. (Staff Ex. 13 at 2-4).

Thomas J. Brown, Jr., Director of Regulatory Policy for Columbia, testified that the stipulation is the product of serious bargaining among knowledgeable parties because each party to the stipulation regularly participates in matters before the Commission and each party was represented by experienced and competent counsel. Mr. Brown contends that the stipulation benefits ratepayers and promotes the public interest because, in addition to the items mentioned by Mr. Puican, the rate increase is limited to $2.50 per month (2.6 percent) for the average residential customer. This will be the first increase in Columbia's base rates since 1994. According to Mr. Brown, the proposed stipulation does not violate any important regulatory principle. (Columbia Ex. 33 at 7-8.)

Upon review of the stipulation, we find that it is the product of serious bargaining among capable, knowledgeable parties. The Commission also finds that many items in the stipulation will benefit the ratepayers and the public interest. However, we also find that the stipulation may not, in all aspects, advance the public's longer term interest in promoting energy efficiency and conservation. The Commission is concerned that the declining block rate structures that remain in Columbia's tariffs may not encourage efficient use of the supply of gas or promote conservation. The tariffs also appear to be at odds with the demand-side management and energy efficiency programs proposed in the stipulation by the parties. While it is incumbent upon the Commission to balance competing policy interests, energy efficiency and conservation concerns have garnered increased Commission attention. In spite of our concerns, the Commission is willing to accept this stipulation in the interest of timely resolution of a matter to which all parties have agreed.

***9** The stipulation requires Columbia to provide PIPP customers with information about Columbia's PIPP arrearage crediting program within 90 days of this

opinion and order. The Commission notes that it is currently considering proposed revisions to its rules addressing the PIPP, which may impact the existing PIPP arrearage crediting programs of some companies. We emphasize that our approval of the stipulation, and this particular requirement, should not be interpreted to mean that Columbia's existing PIPP arrearage crediting program will remain in existence until its next rate case proceeding. Columbia will have to comply with the Commission's revised PIPP rules to the extent that they address the topic of PIPP arrearage crediting.

The stipulation also provides for the establishment of Rider IRP which will provide, among other things, for the replacement of cast iron, wrought iron, unprotected coated steel, and bare steel pipe in Columbia's distribution system. While we are willing to approve the establishment of the rider, our understanding of the projects to be recovered under the rider are projects that would not otherwise be funded by Columbia's existing capital replacement program (Columbia Ex. 13 at 18.) Our intent is that Rider IRP should not be used to recover investment costs that would routinely be included in and funded by the company's existing capital replacement program. Columbia shall provide evidence in its annual Rider IRP applications to show that the rider was not used to recover the costs of projects that otherwise would have been included in its capital replacement program. Also with regard to Rider IRP, while the Commission is willing to agree in these cases to the inclusion of costs for replacement of Columbia's distribution mains in the rider as part of the settlement package, our agreement should not be viewed as an indication that we would otherwise approve of the recovery of such replacement costs through a rider or that the recovery of such costs in future cases through a rider will be authorized.

The parties have agreed that Columbia will install automatic meter reading devices on all its residential and commercial meters within five years and that any meter reading expense savings will be reflected as a deduction in Rider IRP. This item in the stipulation will provide a benefit to customers and Columbia. Utilizing the communications systems and services associated with proposed deployment of advanced metering infrastructures (AMI) by electric distribution companies whose territories overlap with that of Columbia may offer additional benefits to both customers and Columbia. Accordingly, the Commission directs Columbia to conduct a review and report back to the staff within 180 days of this order on the technical capability of Columbia's automatic meter reading devices to take advantage of communications systems and services that could become available with parallel deployment of AMI by electric distribution utilities operated by AEP Ohio and FirstEnergy Corporation within its service territory. The report shall also include a discussion of the potential consumer and utility benefits and costs associated with utilizing AMI communications systems and services.

***10** Finally, with regard to our review of the stipulation, there is no evidence that it violates any regulatory principle or precedent. Accordingly, we find that the stipulation entered into by the parties should be approved and adopted. Columbia shall have the necessary accounting authority to fulfill the terms of the stipulation.

D. *Small General Service Class Rate Design Issues*

The stipulating parties agreed that the rate design issues associated with the Small General Service Class rate schedules were not resolved by the stipulation and should be submitted to the Commission for resolution. The scope of the Small General Service Class rate schedule issues not resolved by the stipulation is limited to the following: (1) the initial and ultimate level of the customer charges; (2) the initial and ultimate level of any base rate volumetric charges; (3) the rate design that is appropriate for the Commission to adopt; and, (4) the rate design that properly aligns the interests of Columbia and consumers in favor of energy efficiency and energy conservation. The stipulating parties agree that the resolution of these issues shall be based on the revenue requirement and distribution to which they have agreed in the stipulation. Because the Commission has had to consider substantially similar rate design issues in other recent gas company rate cases (See *Duke Energy Ohio, Inc.*, Case Nos. 07-589-GA-AIR et al. [May 28, 2008], and *East Ohio Gas Company d/b/a Dominion East Ohio*, Case Nos. 07-829-GA-AIR et al. [October 15, 2008]), the stipulating parties agreed to a procedure intended to expedite the Commission's consideration of the rate design issues in these cases, as follows:

(1) The Commission shall take administrative notice of the records in Case Nos. 07-589-GA-AIR et al., Case Nos. 07-829-GA-AIR et al., and *Vectren Energy*

Delivery of Ohio, Inc., Case Nos. 07-1080-GA-AIR et al.

(2) Columbia will file its rebuttal testimony on rate design issues by no later than October 17, 2008. Other parties may file surrebuttal testimony within seven calendar days of the filing of Columbia's rebuttal testimony.

(3) The parties waive the right to cross-examine witnesses on the rate design issues, and waive the right to file briefs or request oral argument.

(4) The Commission should decide the rate design issues based on the record so established.

The Commission will take administrative notice of the records in Case Nos. 07-589-GA-AIR et al. and 07-829-GA-AIR et al. We will also take administrative notice of the record in Case Nos. 07-1080-GA-AIR et al., but, because those cases are still pending for decision, we will not provide any summary of evidence or anticipated decisions. In *Duke Energy*, the company originally proposed a sales decoupling rider to address a revenue erosion problem caused by declining average use per customer. The decoupling rider would allow the company to offset lower sales through an adjustable rider. The staff recommended in its report a phased-in straight fixed variable (SFV) rate design, to which Duke agreed. The SFV rate design would allow the company to recover most fixed costs through a flat monthly fee. Staff asserted that, as long as Duke's distribution costs are recovered through the volumetric component of base rates, the decline in per-customer usage will continue to threaten the company's recovery of its fixed costs of providing service. Staff claimed that the levelized rate design best addresses the issue while simultaneously removing the disincentives to utility-sponsored energy efficiency programs that exist with the traditional rate design. According to staff, virtually all the costs of gas distribution service are fixed and the cost to serve a residential customer is largely the same, regardless of usage. Staff and Duke agreed that spreading the fixed costs more evenly over the entire year helps to reduce winter heating bills. (*Duke Energy* at 13-14.)OCC and OPAE, who supported the sales decoupling rider, opposed the staff-proposed SFV rate design, arguing that it does not promote energy efficiency because the rate design sends an anti-conservation price signal to consumers, it penalizes customers who have invested in energy efficiency by extending their payback period, and it takes away the consumers' ability to control their energy bill (*Duke Energy* at 14).

***11** The Commission found in *Duke Energy* that declining customer usage contributed to the company's revenue deficiency and that the negative trend in sales has a corresponding negative effect on the company's financial stability, its ability to attract new capital, and its incentive to encourage energy efficiency and conservation. After considering all the evidence, the Commission determined that the SFV rate design would produce more stable customer bills throughout all seasons because fixed costs would be recovered evenly throughout the year, it would be easier for customers to understand and sends better price signals to consumers than a decoupling mechanism, and it would provide more equitable cost allocation among customers regardless of usage. (*Duke Energy* at 17-19.)To mitigate the impact of the rate change, the Commission authorized a phase-in of the SFV rate design (*Duke Energy* at 20).

In *Dominion East Ohio*, the company proposed a sales reconciliation rider that would allow it to recover revenue lost due to energy conservation by consumers. In its report filed in the case, staff again recommended a SFV rate design, to which the company agreed. A two-step phase-in was recommended and the final SFV rate would be limited to recovering only 84 percent of the annual base rate revenue requirement. The SFV rate design was opposed by OCC, OPAE, the city of Cleveland, and the Citizens' Coalition (OCC et al.) in that case. They contend that, if a decoupling mechanism is to be adopted, the appropriate design is a decoupling rider rather that the SFV rate design. (*Dominion East Ohio* at 13-15.)

OCC et al. argued in the *Dominion East Ohio* case that the SFV rate design provides a disincentive for conservation, decreases the natural gas price signals that encourage conservation, penalizes those customers who made energy efficiency investments, may result in low-usage customers dropping off the system which will compound Dominion East Ohio's lost revenue problem, and results in low-usage residential customers subsidizing high-usage nonresidential customers who will see a decrease in their fixed monthly charges. OCC et al. also argued in *Dominion East Ohio* that the Commission needs to consider current economic conditions when deciding the rate design

issue. In support of the SFV rate design, Dominion East Ohio and staff argued that the company's operation and maintenance expenses are fixed in nature and do not vary by usage, the SFV rate design allows costs to be recovered in the manner in which costs are incurred, customers will still make appropriate conservation decisions because the cost of gas is the largest component of a customer's bill, and the SFV rate design is easier for consumers to understand, sends appropriate price signals to consumers, and provides an incentive to Dominion East Ohio to support DSM. According to Dominion East Ohio, the average usage for a low income customer on the company's PIPP is greater than the usage of an average residential customer and, therefore, low income customers are more likely to benefit under the SFV rate design. (*Dominion East Ohio* at 15-20.)

***12** The Commission determined in Dominion East Ohio that some form of decoupling rate design is necessary to align new market realities with important regulatory objectives and that the SFV rate design and a decoupling rider both address revenue and earnings stability issues and remove any disincentive by a public utility to promote conservation and energy efficiency (*Dominion East Ohio* at 22-24). However, the Commission concluded that the SFV rate design was preferable to a decoupling rider because it benefits customers by producing more stable bills throughout all seasons, fixed costs will be recovered evenly throughout the year, it is easier for customers to understand, better price signals are sent to consumers, and it provides a more equitable cost allocation among customers regardless of usage (*Dominion East Ohio* at 24-25).

Turning now to the case at hand, Columbia currently charges a customer charge of $6.50 per month with a volumetric charge of $1.3669 per Mcf for its Small General Service class rate, which includes residential customers. (Primary and secondary schools using less than 300 MCF per year receive, under the current and proposed rates, a five percent discount.) Columbia proposed in its application to increase the customer charge to $12.97 and to decrease the volumetric charge to $0.9479 per Mcf at the conclusion of the rate case. Beginning November 1, 2009, the customer charge would increase to $19.76 per month and the volumetric charge would be eliminated. Company witness Feingold testified that Columbia is proposing this rate design change, and others agreed to in the stipulation, at this time because it best addresses issues such as weather variability, declining usage per customer, high and volatile natural gas prices, and increases and volatility in customers' bills, which have created serious challenges to the financial integrity of Columbia and to the ability of its customers to manage their energy needs (Columbia Ex. 30 at 32). Mr. Feingold testified that, if the Commission approves the proposed rate design change, Columbia and its customers will benefit because customers will not overpay or underpay each month, the problem of intra-class cross subsidization is addressed, customers have improved bill stability, customer bills will be simpler and more understandable, fewer bill complaints should be expected, approved revenue levels will be matched with costs, the proposed rate design will be similar to pricing for other consumer services, rate case frequency should be reduced, revenue forecasting will be simplified, and customers on Columbia's budget billing program should see lower annual true-ups (Columbia Ex. 30 at 45).

In its report, staff recommends approval of the SFV rate design because most distribution costs are fixed and do not vary with the volume of gas delivered, the facilities required to serve a small residence are most likely the same as those required to serve a large residence, the distribution component of the customer's bill is levelized which provides rate certainty, fewer rate cases will be required because revenue deterioration for the utility is reduced, and the disincentive for the utility to promote energy conservation is eliminated (Staff report at 21-23).

***13** OCC opposes Columbia's proposed SFV rate design for various reasons. OCC witness Watkins testified that weather has always been volatile, and will continue to vary from one heating season to the next. He also stated that declining residential customer usage is nothing new; it has been occurring for years. He does not believe that these items represent new business challenges to Columbia or the gas industry in general. (OCC Ex. 1A at 21.) According to Mr. Watkins, the pricing policy for a regulated public utility should mirror that of competitive firms and competitive market-based prices are generally structured based on usage, i.e., volume-based pricing (OCC Ex. 1A at 23 and 1B at 4). He contends that the SFV rate design will promote consumption because the consumer's price of increased consumption is de minims (OCC Ex. 1A at 28). Mr. Watkins stated that the

proposed increase in the customer charge if the SFV rate design is approved violates the rate-making principle of gradualism, which has often been a principle promoted by the Commission's staff. His recommendation in these cases is to continue the existing customer charge of $6.50 (OCC Ex. 1A at 32-33). If the Commission decides that revenue decoupling is appropriate in these cases, Mr. Watkins recommended the adoption of a volumetric decoupling mechanism because it is more efficient, fair, and better promotes conservation than a fixed monthly customer charge rate structure (OCC Ex. 1A at 34).

OCC witness Colton testified that, based upon his study of state-specific Ohio data produced by the U.S. Census Bureau and the U.S. Department of Energy, lower income households live in smaller housing structures and have lower gas consumption than higher income households. He stated that the move to an SFV rate design will result in the placement of an unjust burden of revenue responsibility upon the low-income households (OCC Ex. 2A at 5-12 and 30, and 2B at 2-3). Mr. Colton also found that lower income households live in higher density housing and that they impose a lower distribution cost on Columbia. Therefore, he concluded that a change to the SFV rate design will shift costs from higher income to lower income households and create an intra-class subsidy (OCC Ex. 2A at 13, 36-39). He recommended that, if the Commission approves the proposed SFV rate design, Columbia should be required to hire an auditor to perform an analysis of bill impact on all customers to determine how customers fare under the new rate design (OCC Ex. 2A at 47).

In responding to Mr. Colton's testimony, Company witness Feingold testified that actual customer data from Columbia's billing records clearly indicate that its low income customers use more gas, on an annual basis, than the average residential customer served by the company (Columbia Ex. 31 at 3). He also stated that, while lower income customers may live in smaller dwellings, it is not possible to conclude that living in a smaller house means lower energy use or lower heating demand. Other factors, such as dwelling type (e.g., single-family house versus apartment), age of the dwelling, efficiency of the thermal envelope created by the dwelling's physical structure, number and age of gas appliances within the dwelling, and number and age of the occupants must be considered when forecasting residential consumption of energy (Columbia Ex. 31 at 5-6). Mr. Feingold also disagreed that higher density housing results in lower distribution costs. He contends that more densely populated areas tend to be served from facilities that require more expensive maintenance because of the myriad of facilities (used by electric, water, telephone, steam and cable companies) that are co-located with gas distribution mains, urban populated areas tend to have more strict requirements as to how and when maintenance work may be performed, and customers in less densely populated rural and undeveloped areas may be the least costly to serve because of their proximity to interstate pipelines and the lower installation and maintenance costs associated with distribution facilities used to serve such customers (Columbia Ex. 31 at 21-23). Mr. Feingold concluded that Columbia's low income customers will experience lower charges for distribution service compared to the average residential customer served by the company (Columbia Ex. 31 at 26).

***14** The Commission has determined previously in *Duke Energy* and *Dominion East Ohio* that a rate design that separates or decouples a gas company's recovery of its cost of delivering the gas from the amount of gas customers actually consume is necessary to align the new market realities with important regulatory objectives. The Commission also determined in those cases that an SFV rate design is more appropriate that a sales decoupling rider. After considering the record on rate design issues presented in this case for the Commission's consideration, we again conclude that an SFV rate design is the most appropriate rate design based upon current circumstances. We find that the SFV rate design is preferable to a sales decoupling rider (the alternative recommendation of OCC witness Watkins) because it benefits customers by producing more stable bills throughout all seasons, fixed costs will be recovered evenly throughout the year, it is easier for customers to understand, better price signals are sent to consumers, and it provides a more equitable cost allocation among customers regardless of usage. It is in the interest of all customers that Columbia has adequate and stable revenues to pay for the costs of its operations and capital and to ensure the continued provision of safe and reliable service. Under current circumstances, the SFV rate design will best provide that stability. There is also a societal benefit to engage Columbia to promote conservation. This is best accomplished by removing from rate design the current built-in incentive that Columbia has to increase revenues through in-

creased gas sales. The SFV rate design, which decouples recovery of fixed costs from sales of gas, clearly eliminates any disincentive that Columbia has to promote conservation.

OCC presented testimony opposing Columbia's proposed SFV rate design. OCC witness Watkins contends that weather has always been volatile, that declining residential customer usage is nothing new, and that Columbia's proposed rate design will promote consumption rather than conservation because the increased cost of consumption is de minimis. While it is true that weather is ever changing and has always presented challenges to utilities delivering energy to residential consumers, it is certainly a major factor contributing to price volatility of natural gas and definitely causes variances in Columbia's revenue levels under the existing rate structure. We also agree with OCC that residential customer usage has been declining over the years. We note that OCC encourages continuing declines through its advocacy of demand side management programs and we contend that whatever measures that we may take to maximize the decline, including changes in rate structures, are also in the public interest. Finally, with regard to Mr. Watkins' arguments, we disagree that residential customers will be inclined to consume rather than conserve natural gas under the proposed rate design because the increased cost of consumption is de minimis. The cost of gas will continue to be the major component of a residential customer's gas bill. While the proposed rate structure will lessen the increased cost of consumption, it is inaccurate to state that the cost of gas will be de minimis.

***15** OCC witness Colton argued that, because lower income households live in smaller housing structures and have lower gas consumption than higher income households and because lower income households live in higher density housing and therefore impose a lower distribution cost on Columbia, the move to a SFV pricing structure will place a greater revenue responsibility upon low-income households than higher income households. While it may be true that some low-income households live in smaller housing structures, Columbia's actual customer data shows that low-income customers use more gas than the average residential customer. Is that not the primary reason why weatherization projects, funded by Columbia's customers, are targeted towards low-income households? Finally, we believe that Columbia witness Feingold presented sufficient testimony to show that the cost of maintenance of facilities in a high-density area is not always the lowest.

Although not with regard to a SFV rate design, OCC did support the ratemaking principle of gradualism. The Commission finds that a two-step phase-in is appropriate. As stated above, Columbia currently charges a customer charge of $6.50 per month with a volumetric charge of $1.3669 per Mcf for its Small General Service class rate, which includes residential customers. Proposed tariff sheets reflecting the rate design proposed by Columbia at the revenue level agreed to by the parties to the stipulation were included as Exhibit 3 to the stipulation filed in these cases. The proposed tariff sheets provide for a monthly delivery charge of $12.16 per month for Small General Service class customers beginning at the conclusion of the rate case with a volumetric charge of $0.7911 per Mcf. On and after December 1, 2009, the monthly delivery charge will change to $17.81 and the volumetric charge will be eliminated.

The stipulation also provides that, to provide incentives for low-income, low-use customers to conserve and to avoid penalizing low-income customers who wish to stay off of programs such as PIPP, Columbia will implement a pilot tariff for the first 6,000 eligible customers to apply for the pilot program. Eligible customers shall be non-PIPP low-usage customers with verified incomes at or below 175 percent of the poverty level. Columbia will design a tariff that provides a $4.00 per month discount for eligible customers in order to mitigate the impact of the new levelized rate design. Columbia will develop the details for this program in consultation with staff and the stipulating parties. This pilot program will be funded by Columbia's shareholders at a cost of approximately $288,000 per year for each year 2009 through 2012 depending upon customer participation in the pilot program.

OCC witness Colton recommended that, if the Commission approves the proposed SFV rate design, Columbia should be required to hire an auditor to perform an analysis of bill impact on all customers to determine how customers fare under the new rate design (OCC Ex. 2A at 47). As part of the stipulation, Columbia will fund and manage a comprehensive DSM/Conservation Program Evaluation Study. The scope of study will be cooperatively developed by

Columbia, staff, OCC, OPAE, and other interested parties and will include, but not be limited to, the effects of a levelized rate design on: consumption decisions, conservation efforts, and uncollectible account balances at all levels of income and usage levels; low-use/low-income customers consumption patterns; PIPP enrollments and arrearages; and consumers' energy efficiency investment decisions. The selection of the consultant shall be through a request for proposal process in which Columbia, staff, OCC, OPAE, and other interested parties participate in the review and selection process. The costs of the study will not exceed $100,000. The Commission supports the conduct of a DSM/Conservation Program Evaluation Study. The Commission would suggest that the primary focus of such study should be a process evaluation to identify potential improvements in program implementation and an impact evaluation to measure the change in energy use resulting from individual programs.

III. *RATE DETERMINANTS*:

***16** As agreed to by the parties to the stipulation, the date certain value of Columbia's property used and useful in the rendition of gas service is $1,028,445,000. The Commission finds the rate base stipulated by the parties to be reasonable and proper, and adopts the valuation of $1,028,445,000 as the rate base for purposes of these proceedings.

The stipulation recommends that rates be approved that would enable Columbia to earn a rate of return of 8.12 percent. The return on equity component is 10.39 percent. As noted above, the stipulating parties reduced Columbia's return on equity by 25 basis points to reflect a reduced risk perception because of the alternative regulation provisions agreed to by the stipulating parties and because of the proposed levelized rate design. The Commission finds that a rate of return of 8.12 percent is fair and reasonable for Columbia and should be authorized for purposes of these cases.

Applying a rate of return of 8.12 percent to the value of the used and useful property as of the date certain results in required operating income of $83,510,000. Under the stipulation, the parties agreed that the adjusted operating income of Columbia during the test year was $54,322,000. This results in an income deficiency of $29,188,000, which, when adjusted for uncollectibles and taxes, results in a revenue increase of $47,143,000. Therefore, we find that a revenue increase of $47,143,000 is reasonable and should be approved. The approved revenue increase will result in an increase of 3.27 percent over current company revenues.

IV. *TARIFFS*:

As part of its investigation in this matter, the staff reviewed the company's various rates and charges, and the provisions governing terms and conditions of service. As part of the stipulation, the parties filed proposed tariffs that reflect the rate design proposed by Columbia, at the revenue requirement agreed to by the stipulating parties, as well as the remaining tariff matters agreed to by the parties. The Commission has reviewed the proposed tariffs and found that they correctly incorporate the provisions of the stipulation and the modified SFV rate design. Therefore, the Commission finds that Columbia should file, in final form, four complete, printed copies of the final tariff with the Commission's docketing division, consistent with this order. Columbia shall also file a proposed customer notice or notices. Columbia shall review the customer notices with Commission staff and make whatever changes are recommended by staff. The effective date of the increase shall be a date not earlier than the date upon which final tariffs and the proposed customer notices are filed with the Commission. The new tariffs shall be effective for service rendered on or after such effective date.

V. *PROTECTIVE ORDER*

As previously discussed, on August 21, 2008, Blue Ridge filed, under seal, its Report on Conclusions and Recommendations on the Financial Audit of Columbia. Blue Ridge also filed a redacted version of its report in the public record. On September 25, 2008, OCC filed under seal the testimony of its witness Effron. A redacted version of Mr. Effron's testimony was filed in the public record. On September 25, 2008, OCC also filed a motion for a protective order of Mr. Effron's testimony filed under seal because it contains information that was obtained from the Blue Ridge report and which Columbia considers to be confidential. At the hearing held on November 6, 2008, Columbia requested that a protective order for 12 months be granted for the Blue Ridge report and copy of Mr. Effron's testimony filed under seal. There was no

opposition to the request. We find OCC's motion and Columbia's request to be justified. A protective order for 12 months from the date of this opinion and order shall be granted for the Blue Ridge report and copy of OCC's witness Effron's testimony filed under seal.

FINDINGS OF FACT:

***17** (1) On February 1, 2008, Columbia filed a notice of intent to file an application for an increase in rates. In that notice, the company requested a test year beginning October 1, 2007, and ending September 30, 2008, with a date certain of December 31, 2007.

(2) By Commission entry issued February 27, 2008, the test year and date certain were approved.

(3) On March 3, 2008, Columbia filed applications for approval of an increase in gas distribution rates (08-72), for approval of an alternative rate plan for its gas distribution service (08-73), for approval to certain accounting methods (08-74), and for authority to revise its depreciation accrual rates (08-75). By entry dated April 16, 2008, the Commission accepted the filing of the company's application to increase rates and ordered publication of the legal notice of the filing of the application.

(4) The Commission granted intervention to Ohio Consumers' Counsel; Ohio Energy Group; Appalachian People's Action Coalition; Stand Energy Corporation; Knox Energy Cooperative Association, Inc.; Ohio Partners for Affordable Energy; Dominion Retail, Inc.; Ohio Gas Marketers Group; North Coast Transmission Company, LLC.; Honda of America Mfg., Inc.; the Northwest Ohio Aggregation Coalition; and the Ohio Farm Bureau Federation. Intervention was also granted to Industrial Energy Users - Ohio, which subsequently filed notice of its intent to withdraw from the cases.

(5) On August 21, 2008, staff filed its report of investigation. On the same day, Blue Ridge filed, under seal, its Report on Conclusions and Recommendations on the Financial Audit of Columbia. Blue Ridge also filed a redacted version of its report in the public record.

(6) On September 22, 2008, objections to the staff report were timely filed by Columbia; the Ohio Gas Marketers' Group; OCC; Honda of America Mfg., Inc.; Knox Energy Cooperative Association, Inc.; and jointly by the Appalachian Peoples Action Coalition and Ohio Partners for Affordable Energy. On September 26, 2008, objections were filed out of time by Stand Energy Corporation.

(7) Local public hearings were held in Salem, Springfield, Mansfield, Columbus, Athens, Toledo, Parma, and Lorain.

(8) Columbia published notice of the local public hearings as required by Section 4903.083, Revised Code, and the Commission's entry of October 10, 2008, except in Perry County. The Commission finds that Columbia has substantially complied with the publication requirement.

(9) A prehearing conference was held on July 8, 2008.

(10) The evidentiary hearing was scheduled to commence on October 14, 2008. On October 10, 2008, Columbia filed a notice that it had reached an agreement in principle with several parties on many of the major issues in the case. At the commencement of the hearings on October 14, 2008, the attorney examiner took note of Columbia's filed notice, and continued the hearings to allow the parties additional time to resolve the issues. A joint stipulation was filed on October 24, 2008. The stipulation was signed by Columbia, Commission staff, OCC, Ohio Energy Group, Knox Energy Cooperative Association, Ohio Partners for Affordable Energy, Ohio Gas Marketers Group, Honda of America Mfg., and the Ohio Farm Bureau Federation. The remaining parties do not oppose the stipulation.

***18** (11) The stipulation resolves all outstanding issues except the issues of rate design for the Small General Service Class. These issues were submitted to the Commission for its consideration. The stipulating parties agreed to submit prefiled, written testimony on the issues and they waived the rights to cross-examine witnesses on the issues or to file briefs.

(12) A straight fixed variable rate design is the appropriate rate design for the General Small Service Class.

(13) The value of all of the company's property used

and useful in rendering service to its customers affected by this application as of December 31, 2007, determined in accordance with Section 4909.15, Revised Code, is not less than $1,028,445,000.

(14) The current net operating income for the 12-month period ending September 30, 2008, is $54,322,000. The net annual compensation of $54,322,000 realized by the applicant represents a rate of return of 5.28 percent. The stipulating parties have recommended a rate of return of 8.12 percent.

(15) Applying a rate of return of 8.12 percent to the rate base of $1,028,445,000 will result in an annual dollar return of $83,510,000. Under the stipulation, the parties agreed that the adjusted test year operating income was $54,322,000. This results in an income deficiency of $29,188,000, which, when adjusted for uncollectibles and taxes, results in a revenue increase of $47,143,000.

(16) The proposed revised tariffs filed with the stipulation are consistent with the discussion and findings set forth in this opinion and order and shall be approved.

CONCLUSIONS OF LAW:

(1) Columbia is natural gas company as defined by Section 4905.03(A)(6), Revised Code, and a public utility as defined by Section 4905.02, Revised Code.

(2) The company's application was filed pursuant to, and this Commission has jurisdiction of the application under, the provisions of Sections 4909.17, 4909.18, and 4909.19, Revised Code, and Chapter 4929, Revised Code, and the application complies with the requirements of these statutes.

(3) Investigations of the company's applications were conducted and reports duly filed and mailed, and public hearings held herein, the written notice of which substantially complied with the requirements of Sections 4909.19 and 4903.083, Revised Code.

(4) The stipulation submitted by the parties, as discussed in this opinion and order, is reasonable and shall be adopted.

(5) The existing rates and charges for service are insufficient to provide the applicant with adequate net annual compensation and return on its property used and useful in the provision of service.

(6) A rate of return of 8.12 percent is fair and reasonable under the circumstances of this case and is sufficient to provide the applicant just compensation and return on its property used and useful in the provision of service to its customers.

ORDER:

It is, therefore,

ORDERED, That the joint stipulation filed on October 24, 2008, be approved and adopted in accordance with this opinion and order. It is, further,

***19** ORDERED, That the application of Columbia for authority to increase its rates and charges for service be granted to the extent provided in this opinion and order. It is, further,

ORDERED, That Columbia be authorized to file in final form four complete copies of its tariff consistent with this opinion and order and to cancel and withdraw its superseded tariffs. Columbia shall file one copy in its TRF docket (or may make such filing electronically as directed in Case No. 06-900-AU-WVR) and one copy in this case docket. The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department, It is, further,

ORDERED, That the effective date of the new tariffs shall be a date not earlier than all of the following: the date of this opinion and order; the date upon which four complete, printed copies of final tariffs are filed with the Commission; and the date on which Columbia files its proposed customer notice or notices. The new tariffs shall be effective for service rendered on or after such effective date. It is, further,

ORDERED, That Columbia shall notify all affected customers of the increase in rates via a bill message or a bill insert within 30 days of the effective date of the tariffs. It is, further,

ORDERED, That, in accordance with this opinion and

order, Columbia conduct a review and report back to the staff within 180 days on the technical capability of Columbia's automatic meter reading devices. It is, further,

ORDERED, That the request of Industrial Energy Users-Ohio to withdraw from the case be granted. It is, further,

ORDERED, That a protective order for 12 months from the date of this opinion and order be granted for the Blue Ridge report filed under seal on August 21, 2008, and copy of OCC's witness Effron's testimony filed under seal on September 25, 2008. It is, further,

ORDERED, That nothing in this opinion and order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this opinion and order be served on all parties of record. Entered in the Journal DEC 03 2008

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