

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| THE ELECTRONIC APPLICATION OF COLUMBIA GAS OF |) | |
| KENTUCKY, INC. FOR AN ADJUSTMENT OF RATES; |) | CASE NO. |
| APPROVAL OF TARIFF REVISIONS; ISSUANCE OF A |) | 2021-00183 |
| CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY; |) | |
| AND OTHER RELIEF |) | |

COLUMBIA GAS OF KENTUCKY, INC.'S
POST-HEARING BRIEF

Comes now Columbia Gas of Kentucky, Inc. (“Columbia”), by counsel, pursuant to the November 5, 2021 post-hearing procedural order of the Kentucky Public Service Commission (“Commission”) and other applicable law, and does hereby tender its brief in support of the approval and implementation of the Joint Stipulation, Settlement Agreement and Recommendation entered into by and between Columbia, the Attorney General’s Office of Rate Intervention (“AG”), and Kentucky Industrial Utility Customers (“KIUC”), dated October 26, 2021 (the “Joint Stipulation”), respectfully stating as follows:

I. INTRODUCTION

Natural gas utilities face increasing pressure from federal mandates to safeguard the integrity of their transmission and distribution systems. The significance of these

mandates are magnified by the fact that many elements of Columbia's natural gas system are aging and in need of replacement. There is also a growing consensus within the industry that additional precautions must be taken to avoid dangers inherent from cross-bores and leaks generally. Thus, the capital requirements for natural gas utilities – including Columbia – have increased significantly in recent years and this trend will, no doubt, continue for the foreseeable future. In the face of increased demands for capital investment, Columbia has prudently managed its operations to achieve savings as part of the NiSource Next initiative. In fact, its overall operations and maintenance (“O&M”) expense growth remains consistent with that of ordinary inflationary pressures. By harnessing such efficiencies, Columbia has already been able to blunt some of the effect of its necessary increase in rates for consumers. Through diligence of the AG and KIUC, that rate impact is further diminished in the terms and conditions of the Joint Stipulation. When viewed in its entirety, the Joint Stipulation is fair, just and reasonable and should be approved in its entirety and without modification.

II. PROCEDURAL BACKGROUND

Columbia filed a Notice of Intent to seek a rate adjustment on April 27, 2021. It thereafter tendered its Application for an adjustment of wholesale rates, approval of tariff revisions, issuance of a certificate of public convenience and necessity and other relief (“Application”) on May 28, 2021. The Application was accepted for filing on June 2, 2021.

Motions for intervention by the AG and KIUC were respectively filed on June 4, 2021 and July 1, 2021. The intervention motions were granted on June 9, 2021 and July 28, 2021.

Columbia has been the subject of extensive discovery throughout this proceeding. It responded to five rounds of pre-hearing information requests from the Commission on June 11th, July 21st, August 25th, September 24th and October 20th. Supplemental responses to Staff information requests were filed on July 28th, September 7th, October 11th, November 1st and November 22nd. Columbia also responded to a lengthy and voluminous request for information from the AG on July 21, 2021 and filed supplemental responses to this information request on August 1st, August 11th and August 16th. The Company's responses to the AG's supplemental information requests were filed on August 26, 2021. In all, counting sub-parts, Columbia responded to 1,278 written requests for information.

Following an Order entered on August 24, 2021, which denied Columbia's request for a deviation from certain filing requirements, the Company filed a Notice that it was withdrawing its request for a Certificate of Public Convenience and Necessity ("CPCN") for a safety training facility.

The AG filed testimony on September 8, 2021 from two experts in opposition to Columbia's proposed rate increase. The AG responded to information requests from Commission Staff and Columbia on October 13, 2021. KIUC did not sponsor any expert testimony in this case.

Columbia filed rebuttal testimony on October 22, 2021. Four days later, on October 26, 2021, Columbia, the AG and KIUC filed the Joint Stipulation and supporting documents. In broad terms, the Joint Stipulation reduces the proposed rate increase from \$26.695 million to \$18.6 million. Columbia additionally filed support for the Joint Stipulation in the form of supplemental testimony from Judy M. Cooper.

Two public meetings were held on October 26, 2021 for the purpose of accepting comments from the public on the proposed rate increase, however, no members of the public participated. An evidentiary hearing was held on November 3, 2021 at the Commission's offices in Frankfort, Kentucky, where eighteen (18) witnesses were available to be examined. A post-hearing procedural order was entered on November 5, 2021, pursuant to which Columbia tendered responses to post-hearing data requests on November 19, 2021. With the filing of this Brief, the record is now complete and the matter stands ready for adjudication.

III. ARGUMENT

A. Standard of Review

The Commission's jurisdiction extends to the "rates" and "service" of public utilities.¹ The Kentucky Supreme Court has observed, "[t]he manifest purpose of the

¹ See KRS 278.040. See also *Public Service Comm'n v. Blue Grass Natural Gas Co.*, 197 S.W.2d 765, 768 (Ky. 1946) citing *Smith v. Southern Bell Telephone and Telegraph Co.*, 104 S.W.2d 961; *Benzinger, etc., v. Union Light, Heat, & Power Co.*, 170 S.W.2d 38 (Ky. 1943); *Peoples Gas Co. of Kentucky v. City of Barbourville*, 165 S.W.2d 567 (Ky. 1942).

Public Service Commission is to require and insure fair and uniform rates, prevent unjust discrimination, and prevent ruinous competition.”² Furthermore, the regulation of public utilities “has a substantial relation to the public welfare, safety and health and, in a real degree, promotes these objects.”³ However, in setting utility rates, the Commission is “dealing with property rights of ... corporations.”⁴ The Commission may not act in a manner that is unlawful or unreasonable.⁵

Unreasonable has been construed in a rate-making sense to be the equivalent of confiscatory. This Court has equated an unjust and unreasonable rate to confiscation of utility property. We have declared that rates established by a regulatory agency must enable the utility to operate successfully and maintain its financial integrity in order to meet the just and reasonable nonconfiscatory tests.⁶

In light of these constitutional and statutory limits on the Commission’s authority, it is well-established that the Commission “has no authority to impose a new duty on utilities when that duty has no foundation in law. To do so is an unconstitutional legislative act....”⁷ In undertaking its work, the focus of the Commission’s efforts are

² *Simpson County Water Dist. v. City of Franklin*, 872 S.W.2d 460, 464 (Ky. 1994) citing *City of Olive Hill v. Public Service Comm’n*, 203 S.W.2d 68 (Ky. 1947).

³ *City of Florence v. Owen Elec. Co-op., Inc.*, 832 S.W.2d 876, 882 (Ky. 1992).

⁴ *Bobinchuck v. Levitch*, 380 S.W.2d 233, 236 (Ky. 1964).

⁵ See KRS 278.430.

⁶ *Public Service Comm’n v. Dewitt Water District*, 720 S.W.2d 725, 730 (Ky. 1986) citing *Commonwealth, ex rel. Stephens v. South Central Bell Telephone Co.*, 545 S.W.2d 927 (Ky. 1976).

⁷ *Public Service Comm’n v. Jackson County Rural Elec. Co-op., Inc.*, 50 S.W.3d 764, 766 (Ky. Ct. App. 2000), as modified (July 21, 2000) citing *Henry v. Parrish*, 211 S.W.2d 418 (Ky. 1948).

upon the outcome. As stated by the Kentucky Supreme Court: “[T]he Commission has discretion in working out the balance of interests necessarily involved and that it is not the method, but the result, which must be reasonable.”⁸ The Kentucky Court of Appeals offered this similar perspective:

The teaching of these cases is straightforward. In reviewing a rate order courts must determine whether or not the end result of that order constitutes a reasonable balancing, based on factual findings, of the investor interest in maintaining financial integrity and access to capital markets and the consumer interest in being charged non-exploitative rates. ... those choices must still add up to a reasonable result.⁹

In setting rates, “the future as well as the present must be considered.”¹⁰ Indeed, “rates are merely the means designed for achieving a predetermined objective, which in this instance was how much additional revenue should the Company be allowed to earn.”¹¹ As the applicant, Columbia bears the burden of proof to demonstrate that it is entitled to the relief which it seeks.¹²

⁸ *Kentucky Indus. Utility Customers, Inc. v. Kentucky Utilities Co.*, 983 S.W.2d 493, 498 (Ky. 1998) citing *Federal Power Comm’n v. Hope Natural Gas*, 320 U.S. 591 (1944). See also *National-Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 515 (Ky. App. 1990) (“We are primarily concerned with the product and not with the motive or method which produced it.”) citing *Louisville & Jefferson County Met. Swr. Dist. v. Joseph E. Seagram & Sons*, 211 S.W.2d 122 (Ky. 1948).

⁹ *National-Southwire*, 785 S.W.2d at 513 citing *Jersey Central Power & Light Co. v. Federal Energy Regulatory Comm’n*, 810 F.2d 1168, 1177 (D. C. Cir. 1987).

¹⁰ *Dewitt Water District*, 720 S.W.2d at 730 citing *McCardle v. Indianapolis Water Company*, 272 U.S. 400 (1926).

¹¹ *Kentucky Power Co. v. Energy Regulatory Comm’n*, 623 S.W.2d 904, 908 (Ky. 1981).

¹² See *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46, 49 (Ky. App. 1980).

B. The Joint Stipulation Presents a Fair, Just and Reasonable Resolution of all Issues in this Case and Should be Approved in its Entirety and Without Modification

Columbia, the AG and KIUC – all representing diverse interests and viewpoints – have reached a complete settlement of all the issues raised in this proceeding. The Joint Stipulation documents this agreement and was previously tendered to the Commission for its consideration and approval. Columbia understands the Stipulation is not binding upon the Commission, but believes it is nevertheless entitled to careful consideration and approval. Viewed in its entirety, the Joint Stipulation constitutes a fair, just and reasonable resolution of all issues in this proceeding as set forth herein below.

1. The Joint Stipulation’s Proposed Revenue Increase is Reasonable

The Joint Stipulation proposes that Columbia’s adjusted base rate revenue requirement for the forecasted test year of January 1, 2022 through December 31, 2022 is \$165.965 million.¹³ This represents an increase of \$18.6 million over the test year revenue that would be collected at current rates,¹⁴ which equates to an overall increase in base rates of 12.62%.¹⁵ However, the increase for a residential customer with average monthly usage of 5.6 Mcf will be slightly less at 12.4% increase.¹⁶ In arriving at this revenue

¹³ See Joint Stipulation, p. 3.

¹⁴ See *id.*

¹⁵ See *id.*

¹⁶ See *id.*

requirement, the Company, AG, and KIUC made a number of adjustments to the originally proposed revenue requirement, which may be summarized as follows:

a. Incentive Compensation Tied to Earnings

As part of the Stipulation, Columbia agreed to remove that portion of its incentive compensation costs tied to the financial performance of the Company.¹⁷ This is consistent with Commission precedent,¹⁸ and results in a reduction from the originally proposed revenue requirement of \$1.362 million.¹⁹

b. Retirement Program Expenses

The Joint Stipulation also reflects two adjustments to Columbia's original revenue requirement that are tied to various retirement program expenses. First, Columbia's adjusted revenue requirement, stated above, reflects the removal of all Senior Executive Retirement Program costs, which is a reduction from the originally proposed revenue requirement of \$.073 million.²⁰ The SERP costs were incurred as a result of agreements

¹⁷ See *id.*, p. 4.

¹⁸ See *In the Matter of the Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, Order*, Case No. 2018-00358 (Ky. P.S.C. Aug, 8, 2019):

While the Commission historically denies recovery for portions of incentive compensation benefits that are tied to financial performance measures such as earnings per share, the ESPP is not tied to financial performance measures. This distinction is important because incentive plans in which stock awards or other financial compensation to employees that are tied to financial performance measures are designed to primarily benefit shareholders rather than ratepayers, and therefore the Commission disallows recovery of such plans.

¹⁹ See Joint Stipulation, p. 4.

²⁰ See *id.*

with former Columbia executives.²¹ Second, the Joint Stipulation affirms that Columbia's adjusted revenue requirement reflects the removal of all 401(k) contributions for employees who are also covered under a defined benefit plan.²² This results in a reduction from the originally proposed revenue requirement of \$.380 million.²³

c. O&M Expense

The Joint Stipulation further affirms that Columbia's adjusted revenue requirement reflects several inter-related items relating to general O&M expense. For instance, the Attorney General originally proposed a \$4.058 million reduction in O&M expense to account for unspecified savings.²⁴ In the Joint Stipulation, the parties agreed to a compromise reduction in the O&M expense of \$2.042 million.²⁵ The overall compromise is fair, just and reasonable in light of the evidence of record.²⁶

At the hearing, several questions were asked about Columbia's prior rate case, a more recent bench-marking study, and the relative O&M expense of Columbia's parent,

²¹ See Supplemental Testimony of Judy M. Cooper, p. 6 (Oct. 26, 2021).

²² See Joint Stipulation, p. 4; Supplemental Testimony of Judy M. Cooper, p. 7 (Oct. 26, 2021).

²³ See Joint Stipulation, p. 4.

²⁴ See Corrected Direct Testimony of David Dittmore, p. 7 (Sept. 10, 2021).

²⁵ See Joint Stipulation, p. 5.

²⁶ The Joint Stipulation does not specifically address the so-called "profit sharing" mechanism that is not tied to earnings and which was the subject of some discussion at the hearing. See Cross-Examination of Kimberly Cartella, Hearing Video Record ("HVR") 11:54:45 (Nov. 3, 2021). However, the Joint Stipulation also does not address the union contract which was recently negotiated, which results in \$91,799 additional expense to Columbia. See Columbia Gas of Kentucky Response to Post-Hearing Data Request No. 9.

NiSource, to peers.²⁷ Ms. Cole explained that the bench-marking study was simply an initial piece of data prepared by a third-party to evaluate where operational savings and efficiencies could be found at the NiSource level.²⁸ As the first piece of a more lengthy analysis, the bench-marking study only provided a limited degree of value in determining the potential for savings.²⁹ Ms. Cole explained how subsequent analysis helped shape the NiSource Next initiative and, today, Columbia's internal processes allow it to review charges allocated by NiSource on at least a monthly basis and question or challenge, as necessary, any charges which seem out of the ordinary.³⁰ Ms. Susan Taylor provided additional testimony to support and explain the processes in place to properly allocate costs.³¹ Without limitation, these include passing along costs without mark-up, using competitive bidding procedures and actual market pricing, undertaking enterprise level cost analysis, using reasonable budgeting procedures and reviewing variances.³² Moreover, in light of the fact that customers often have multiple choices for consuming energy, any utility – including Columbia – has an incentive to keep costs as low as possible or risk losing customers to other forms of energy providers. Ms. Cole

²⁷ See Cross-Examination of Kimra H. Cole, HVR 9:20:25 (Nov. 3, 2021).

²⁸ See *id.*, HVR 9:21:50; HVR 9:23:50.

²⁹ See *id.*, HVR 9:23:15 – 9:24:40.

³⁰ See *id.*, HVR 9:25:10; Cross-Examination of Susan Taylor, HVR 11:47:20 – 11:48:05 (Nov. 3, 2021).

³¹ See Cross-Examination of Susan Taylor, HVR 11:38:30 – 11:40:43 (Nov. 3, 2021).

³² See *id.*, HVR 11:41:40 – 11:45:35 (Nov. 3, 2021); see also Columbia Gas of Kentucky Response to Post-Hearing Data Request No. 12 (Nov. 19, 2021).

summarized her perspective on NiSource Next by indicating her agreement with the efficiencies achieved to date and her commitment to looking for additional efficiencies in the future.³³ In light of the efforts by NiSource to achieve savings and efficiencies and share these with Columbia, the O&M expense adjustment agreed upon in the Joint Stipulation are appropriate.

At the same time, the Joint Stipulation includes a pair of other adjustments to O&M expense which pertain to important safety and reliability programs sponsored by Columbia. For instance, the Parties agree that Columbia should implement its cross-bore program to identify and remediate instances where its gas system has been compromised by the cross-bores of utility contractors or other providers.³⁴ Columbia witness David Roy explained that the prevalence of cross-bores has increased with the proliferation of trenchless technologies.³⁵ The dangers associated with cross-bores are significant, and the Company's experience with its pilot program demonstrates that cross-bores are a real threat to system integrity.³⁶ When a gas line and a sewer line penetrate one another, the

³³ See Cross-Examination of Kimra H. Cole, HVR 9:29:10 (Nov. 3, 2021).

³⁴ See Joint Stipulation, p. 5; Cross-Examination of David Roy, HVR 12:12:12 – 12:14:10 (Nov. 3, 2021). As part of the Joint Stipulation, Columbia has agreed to file an annual report with the Commission detailing the effectiveness of its cross-bore program. Information to be included in the annual report is identified as follows: (1) the number of miles of main surveyed; (2) the number of cross bore situations found along surveyed mains with the quantity of main and number of services replaced as a result of the program; (3) capital expenditures incurred under the program; (4) annual O&M expense associated with the program, including an explanation of how such costs were quantified; (5) a summary of program results, including any new operating procedures implemented as a result of the program; and (6) the identification of any cross-bores detected through use of the Picarro leak detection system. See Joint Stipulation, p. 13.

³⁵ See Cross-Examination of David Roy, HVR 12:12:30 (Nov. 3, 2021).

³⁶ See Columbia Gas of Kentucky Response to Post-Hearing Data Request No. 7 (Nov. 19, 2021).

risk exists for natural gas to back-up into individual sewer lines or sewer mains, which would pose a danger to consumers.³⁷ Columbia has no choice but to remediate the damages caused by cross-bores which it identifies on its system,³⁸ thus the cross-bore program funded in the Joint Stipulation restores \$.841 million to Columbia's O&M expense.³⁹ Similarly, the Joint Stipulation reflects the agreement of the parties that Columbia's adjusted revenue requirement should permit the implementation of the proposed Picarro program.⁴⁰ The Picarro program will facilitate the detection of leaks throughout Columbia's system.⁴¹ As explained by Company witness David Roy:

The Picarro system is a hardware device that is mounted on a vehicle. When driven along a route, it has the ability to detect the presence of methane up to six hundred feet away, with 1,000 times more sensitivity than traditional leak detection equipment. Its technology combines a parts per-billion capable methane and ethane sensor, an anemometer for wind speed and direction detection, GPS technology, and a back channel to a secure cloud-based storage solution.

³⁷ See Cross-Examination of David Roy, HVR 12:14:27 – 12:15:30 (Nov. 3, 2021).

³⁸ See *id.*, HVR 12:15:30 (Nov. 3, 2021).

³⁹ See Joint Stipulation, p. 5.

⁴⁰ See *id.*, p. 5.

⁴¹ See Application, Direct Testimony of David Roy, pp. 31-36 (May 28, 2021). As with the cross-bore program, the Picarro program will include an annual reporting requirement that includes: (1) the number of leaks (using leak grades defined by PHMSA) identified on Company mains, by grade, detected on: (a) pipe prone to leak (bare steel or cast iron); (b) pipe with no known issues; or (c) recently installed mains; (2) the top ten areas of grade 1 leaks identified through the Picarro leak technology; and (3) a general discussion of the concentration of leaks by pipe type; (4) any immediate action taken as a result of the Picarro leak survey; and (5) the total number of leaks by grade that were repaired and quantification of pipe replaced by pipe type as a result of the Picarro leak survey. See Joint Stipulation, pp. 12-13.

Accordingly, the revenue requirement shall increase by \$.302 million.⁴² As explained by Ms. Cooper, “Columbia feels very strongly that [the cross-bore and Picarro] programs are essential to implementing [Columbia’s] overall commitment to safety.”⁴³

Another adjustment related to O&M expense is the reflection of the removal of Line DE inspection costs avoided by In-Line Inspection.⁴⁴ This serves to decrease the originally proposed revenue requirement by \$.091 million.⁴⁵ Additional information related to Line DE is discussed *infra*.

d. Credit Card Fees

In its Application, Columbia proposed to capture the cost of credit card transaction fees paid by customers in base rates as a cost of collecting revenue, similar to the costs of other payment channels.⁴⁶ Under the Joint Stipulation, Columbia agreed to forego recovery of these credit card fees, which has the effect of lowering the revenue requirement by \$.280 million from Columbia’s originally proposed revenue requirement.⁴⁷

⁴² See Joint Stipulation, p. 5.

⁴³ See Supplemental Testimony of Judy M. Cooper, p. 9 (Oct. 26, 2021).

⁴⁴ See Joint Stipulation, p. 6.

⁴⁵ See *id.*

⁴⁶ See Supplemental Testimony of Judy M. Cooper, p. 9 (Oct. 26, 2021).

⁴⁷ See Joint Stipulation, pp. 5-6.

e. Depreciation Expense Correction

The Joint Stipulation also accounts for the correction of depreciation expense based upon an error discovered in the course of case discovery, which is a reduction from the originally proposed revenue requirement of \$.280 million.⁴⁸

f. Withdrawal of CPCN Request for Safety Training Facility

Columbia originally requested a CPCN for authority to construct a safety training facility at its Lexington headquarters.⁴⁹ This would obviate the need for its employees to travel out-of-state to receive necessary training using other utilities' facilities. However, Columbia was unable to complete the requisite plans, drawings and specifications required by 807 KAR 5:001, Section 16 prior to filing its Application. Based upon the Commission's August 24, 2021 Order, Columbia withdrew its request for a CPCN.⁵⁰ The withdrawal of the CPCN results in a reduction to Columbia's originally proposed revenue requirement by \$.121 million.

g. Rate Base Adjustments Impacting the Revenue Requirement

Finally, the Joint Stipulation notes several adjustments to the Company's rate base that have a corresponding effect upon Columbia's revenue requirement. These are described as follows:

⁴⁸ See Joint Stipulation, p. 4.

⁴⁹ See Application, pp. 9-11.

⁵⁰ See Columbia Gas of Kentucky's Notice of Withdrawal of Request for Certain Relief (filed Sept. 1, 2021).

- Columbia updated its accumulated deferred income tax (“ADIT”) balance in the forecasted test period, which results in a decrease in the company’s originally proposed revenue requirement of \$.196 million;
- Columbia made certain other tax adjustments which effect rate base and result in a decrease in the originally proposed revenue requirement of \$.275 million;
- Columbia made an adjustment to cash working capital, which results in a reduction in its originally proposed revenue requirement of \$.867 million;
- Columbia agreed to increase its depreciation balance to reflect the depreciation expense adjustment set forth below, resulting in an increase to its originally proposed revenue requirement of \$.009 million.⁵¹

In making the adjustments related to the taxes, it was expressly understood that the adjustments are for ratemaking purposes only and that there would be no actual change in the accounting or tax assumptions or entries of Columbia or its parent or affiliates. As Ms. Cooper explained, “[t]his compromise is made solely for purposes of arriving at a mutually acceptable revenue requirement.”⁵² Likewise, the adjustment to cash working capital is the product of compromise and the Company continues to assert

⁵¹ See Joint Stipulation, pp. 6-7.

⁵² See Supplemental Testimony of Judy M. Cooper, p. 11 (Oct. 26, 2021).

that, standing alone, it would be inappropriate.⁵³ Nevertheless, as part of the Joint Stipulation, all of these adjustments are part of a larger agreement which, in its totality, is fair, just and reasonable.

h. Summary

When considered in the broader context of the entire Joint Stipulation, the adjustments to the proposed revenue requirement are reasonable. While no individual party would have agreed to each of these adjustments in isolation, they reflect a compromise that was of benefit to each party to the Joint Stipulation and its respective constituencies. While a myriad of other adjustments – whether positive or negative – could have been made, the Joint Stipulation represents a bargained-for outcome that under the specific facts of this case is fair, just and reasonable. The Joint Stipulation is clear that no concession or adjustment is to be given precedential value, or is in any way binding on the Commission or a signatory to the Joint Stipulation, in a future proceeding. However, the Joint Stipulation’s adjustments to Columbia’s proposed revenue requirement are appropriate as a whole and in the context of other terms of the Joint Stipulation, as set forth below.

⁵³ See Supplemental Testimony of Judy M. Cooper, pp. 11-12; Rebuttal Testimony of Kevin Johnson (Oct. 22, 2021).

2. The Joint Stipulation's Proposed Rate Base is Reasonable

The Joint Stipulation reasonably proposes that the thirteen-month average rate base for the forecasted test period is \$431.140 million.⁵⁴ This figure takes into account each of the revenue adjustments described above that had an impact upon rate base.

3. The Joint Stipulation Includes a Reasonable Calculation as to the Cost of Capital

A key feature of the Joint Stipulation is the calculation of Columbia's cost of capital. In arriving at this figure, the parties to the Stipulation engaged in significant give and take and compromise. For instance, Columbia requested in its Application to be allowed an authorized return on equity of 10.3%,⁵⁵ while the AG's recommendation was 9.1%.⁵⁶ The Joint Stipulation recommends that Columbia be awarded an authorized return on equity of 9.35% for natural gas base rates and 9.275% for natural gas capital riders.⁵⁷ The AG's ROE expert witness affirmed that the terms of the Joint Stipulation – viewed in their entirety – are reasonable.⁵⁸

For the debt portion of the cost of capital calculation, the Joint Stipulation reasonably recommends that the long-term debt rate should be 4.370% and the short-term

⁵⁴ See Joint Stipulation, p. 3.

⁵⁵ See Direct Testimony of Kimra H. Cole, p. 23 (Aug. 28, 2021); Direct Testimony of Vincent V. Rea, pp. 98-99 (May 28, 2021) (recommending an ROE between 10.3% and 10.8% for a mid-point of 10.55%).

⁵⁶ See Direct Testimony of Richard Baudino, pp. 3, 29 (Sept. 8, 2021).

⁵⁷ See Joint Stipulation, p. 3.

⁵⁸ See Cross-Examination of Richard Baudino, HVR 10:17:19 (Nov. 3, 2021).

debt rate should be 1.30%.⁵⁹ These numbers are derived from the latest available data as set forth in Mr. Rea's rebuttal testimony.⁶⁰

Finally, the Joint Stipulation appropriately recommends that the Commission accept Columbia's capital structure as follows: 52.64% equity, 44.25% long-term debt and 3.11% short-term debt.⁶¹ Applying these stipulated capital costs to the Company's capital structure yields a weighted average cost of capital of 6.89%.⁶²

4. The Joint Stipulation Proposes a Reasonable Rate Design

The rate design proposed by the Company in its application remains largely intact in the Joint Stipulation, however, there are two changes. First, the Joint Stipulation recommends that Columbia's customer charge for residential service should increase by \$3.75 from \$16.00 per billing period to \$19.75 per billing period,⁶³ which is significantly less than the increase originally proposed in Columbia's Application.⁶⁴ Second, the Joint Stipulation includes a recommendation that reallocates the revenue requirement within three blocks of a single rate – Rate DS.⁶⁵ The Joint Stipulation recommends that one-third

⁵⁹ See Joint Stipulation, p. 3; *see also* Columbia Gas of Kentucky Response to Post-Hearing Data Request No. 1, Attachment A.

⁶⁰ See Rebuttal Testimony of Vincent Rea, pp. 69-71 (Oct. 22, 2021).

⁶¹ See Joint Stipulation, p. 6.

⁶² See *id.*

⁶³ See *id.*, p. 7. In reducing the increase to the customer charge, the incremental revenue increase is shifted to some degree to the volumetric charge.

⁶⁴ See Supplemental Testimony of Judy M. Cooper, p. 15 (Oct. 26, 2021).

⁶⁵ See Joint Stipulation, p. 10.

(1/3rd) of the adjusted revenue requirement in the third block of Rate DS should be reallocated in equal portions to the first two blocks of Rate DS.⁶⁶ This small change does not impact the total incremental rate increase impact to Rate DS or any other rate class. Thus, taking into account the lower revenue requirement that is at the heart of the Joint Stipulation, the allocation by class is as follows:

| Allocation of Revenue Increase by Rate Class | | | | |
|--|-------------|--------|--------|--------|
| GSR/GTR | GSO/GTO/GDS | IS/DS | IUS | DS-ML |
| 65.818% | 26.323% | 7.791% | 0.032% | 0.036% |

This allocation is appropriate and reasonable and should be approved. Attachment C to the Joint Stipulation further offers the proof of revenues to demonstrate that the Company’s billing determinants are sufficient to realize the proposed increase in revenues if the new rates are approved.

5. Columbia’s Agreement to “Stay Out” of Another Base Rate Increase for a Three-Year Period is a Significant Factor in Demonstrating the Reasonableness of the Joint Stipulation

A key term of the Joint Stipulation is Columbia’s agreement to not file another application to adjust the base rates where such adjustment would have an effective date prior to Unit 1 of Columbia’s January 2025 billing cycle.⁶⁷ In other words, the Company may file an application for a rate adjustment prior to January 1, 2025, provided the effective date of rates, once suspended by the Commission in accordance with KRS

⁶⁶ See *id.*

⁶⁷ See *id.*, pp. 7-8.

278.190, are not effective for service rendered prior to Unit 1 of Columbia's January 2025 billing cycle.⁶⁸

Notwithstanding the base rate stay-out commitment described above, Columbia shall retain the right, at any time, to seek approval from the Commission of the deferral of costs as permissible under the Commission's standard for deferrals;⁶⁹ emergency rate relief under KRS 278.190(2) to avoid a material impairment or damage to credit or operations; adjustments to the operation of any of Columbia's now existing, or future, cost recovery surcharge mechanisms (e.g., Gas Cost Adjustment, Weather Normalization Adjustment, Energy Efficiency and Conservation Rider, Rider SMRP, Local Franchise Fees and Taxes, etc.); and rate relief and/or accounting treatment for costs or programs required due to changes in law or regulations, including but not limited to, changes in tax rates, or changes to existing, or implementation of new, environmental (e.g. federal or state EPA rules) or safety (e.g. PHMSA rules or state administrative pipeline safety rules) compliance costs applicable to natural gas operations that may occur during the stay-out period.⁷⁰

⁶⁸ See *id.*, pp. 7-8.

⁶⁹ See *In the Matter of the Application of East Kentucky Power Cooperative, Inc. for an Order Approving Accounting Practices to Establish a Regulatory Asset Related to Certain Replacement Power Costs Resulting from Generation Forced Outages*, Order, Case No. 2008-00436 (Ky. P.S.C. Dec. 23, 2008).

⁷⁰ See Joint Stipulation, p. 8.

6. The Proposed Changes to Rider SMRP are Fair, Just and Reasonable

The Joint Stipulation includes two recommendations relating to Columbia's existing Rider SMRP. First, and consistent with the Company's Application, the Joint Stipulation recommends that the existing revenue requirement associated with Columbia's SMRP Rider should be rolled into and included in base rates and that the SMRP Rider shall be reset to \$0 upon the effectiveness of Columbia's new base rates.⁷¹ Second, the Joint Stipulation reflects the parties' agreement that Columbia's SMRP Rider shall be modified to permit inclusion of replacement of older plastic pipe susceptible to brittle-like cracking, as described in the testimony of Witness Roy, in the calculation of the SMRP Rider revenue requirement.⁷² The specific pipes targeted by the updated SMRP Rider are among the earliest vintages of plastic pipes that tend to create small leaks that grow over time, largely due to compression and normal geophysical/environmental factors.⁷³ The priorities for replacing pipeline are established based upon specific data gathered from Columbia's system via the Company's integrity management program.⁷⁴ Because it is difficult to determine the failure rate for plastic pipes and these types of

⁷¹ See *id.*, pp. 10-11.

⁷² See *id.*

⁷³ See Cross-Examination of David Roy, HVR 12:18:40 – 12:21:10 (Nov. 3, 2021).

⁷⁴ See *id.*, HVR 12:21:20 – 12:23:40; 14:50:45 (Nov. 3, 2021); Columbia Gas of Kentucky Post-Hearing Data Request No. 16 (Nov. 19, 2021).

replacement projects are becoming more frequent as the risks associated with this type of pipeline increases,⁷⁵ regulatory treatment under KRS 278.509 is appropriate.

7. The Proposed In-Line Inspection for Line DE is Necessary to Assure Compliance with Federal Law and Ensure Continued System Reliability

A key element of the Company's Application was the recovery of costs associated with in-line inspection of Line DE. As described by Mr. Roy, Line DE is fifty-two (52) miles long and serves as the backbone of Columbia's system and serves several of its largest industrial customers and entire communities.⁷⁶ The loss of Line DE would likely result in significant and lengthy service outages.⁷⁷ Although PHMSA allows for other forms of line inspections, such methods are not feasible for Line DE.⁷⁸ The methods by which Columbia has previously inspected Line DE are no longer feasible under the new regulations.⁷⁹ For instance, pressure testing would require several days of outages that would likely compromise the ability to provide uninterrupted service to customers, and other methods fail to provide a complete assessment of the condition of the pipeline.⁸⁰

⁷⁵ See Cross-Examination of David Roy, HVR 12:32:10 – 12:36:47 (Nov. 3, 2021). Mr. Roy further explained that the corrosion or failure rate for various types of pipelines can accelerate quickly, which may cause replacement priorities to shift. See *id.*, HVR 15:10:12 (Nov. 3, 2021).

⁷⁶ See *id.*, HVR 13:55:10 – 13:56:45; HVR 14:13:25 (Nov. 3, 2021).

⁷⁷ See *id.*, HVR 14:20:14 (Nov. 3, 2021).

⁷⁸ See *id.*, HVR 13:57:25 – 14:04:33 (Nov. 3, 2021).

⁷⁹ See *id.*, HVR 14:21:50 (Nov. 3, 2021); Columbia Response to Post-Hearing Data Request No. 13, p. 2 ("However, certain threats to this line can no longer be identified or assessed using certain of the current assessment methods such as direct assessment. For example, direct assessment is no longer appropriate as a primary assessment method for manufacturer defects, dents or other forms of mechanical damage.") citing 49 CFR 192.923.

⁸⁰ See Cross-Examination of David Roy, HVR 13:57:25 – 14:04:33 (Nov. 3, 2021).

Moreover, the challenge of undertaking pressure testing is made more difficult by the growing demand for gas along Line DE.⁸¹ Line DE cannot be completely back fed from any other source,⁸² and some anomalies within its surfaces have already been observed.⁸³ From a qualitative point of view, there is no other reasonable option to consider to comply with federal law.⁸⁴ There being no other reasonable alternative, in-line inspections of Line DE is essential and required for Columbia to be able to maintain the integrity of its natural gas system and to comply with federal law.

In the course of the November 3rd hearing, there were several questions asked which hinted at the need for Columbia to have sought a CPCN prior to undertaking the modifications to make in-line inspection of Line DE possible.⁸⁵ Without recovery of the costs of the in-line inspection expense, Columbia would be unlikely to be able to earn its authorized revenue requirement.⁸⁶ These discussion were largely premised upon the proportional amount of the in-line inspection capital expenditures in relation to the Company's annual capital budget.⁸⁷ However, the Commission has historically

⁸¹ See *id.*, HVR 14:01:50 – 14:02:10 (Nov. 3, 2021).

⁸² See *id.*, HVR 14:03:50 (Nov. 3, 2021).

⁸³ See *id.*, HVR 14:15:35 (Nov. 3, 2021).

⁸⁴ See *id.*, HVR 14:04:30 – 14:04:33; 14:48:40 – 14:50:20 (Nov. 3, 2021).

⁸⁵ See, e.g., Cross-Examination of Jeffrey Gore, HVR 11:13:01; 11:18:23 (Nov. 3, 2021); Cross-Examination of David Roy, HVR 14:31:19 (Nov. 3, 2021).

⁸⁶ See Cross-Examination of Jeffrey Gore, HVR 11:18:10 (Nov. 3, 2021).

⁸⁷ See *id.*, HVR 11:18:45 – 11:21:40 (Nov. 3, 2021). Mr. Gore indicated that the capital costs of the in-line inspection for 2021 equal approximately 20% of the Company's total capital budget. See also Cross-Examination of David Roy, HVR 14:32:30; HVR 14:55:30 (Nov. 3, 2021).

measured whether an investment is an ordinary course extension by comparing the investment to the utility's total net plant in use, not its annual capital budget.⁸⁸ By this traditional measure, Columbia's in-line inspection investments are completely justified as ordinary course extensions of its system. On cross-examination, Company witness Judy Cooper explained that the total cost of the modifications necessary to facilitate the in-line inspections was only \$17 million.⁸⁹ Compared to Columbia's overall net plant in service, this equates to an investment of only approximately 2.8%.⁹⁰ As recently as 2019, approximately a year before Columbia was contemplating initiating the in-line inspection project,⁹¹ Columbia received an Order from the Commission affirming that an expenditure equal to 3.28% of its existing net plant value qualified as an extension of its system in the ordinary course of business.⁹² The costs for in-line inspections of Line DE

⁸⁸ See *In the Matter of the Application of Northern Kentucky Water District for Approval of Dixie Highway Water Main Improvements, issuance of a Certificate of Convenience and Necessity and Approval of Financing*, Order, Case No. 2014-00171, p. 4 (Ky. P.S.C. Aug. 6, 2014):

The Commission has similarly adopted this method and likewise looks to the scale of a proposed project in relation to the relative size of the utility and its present facilities. The proposed method of financing a project is not necessarily determinative of whether a project requires a CPCN; rather the Commission looks to whether the facilities would result in wasteful duplication, compete with existing facilities or involve sufficient capital to materially affect the utility's financial condition.

⁸⁹ See Cross-Examination of Jeffrey Gore, HVR 11:06:24; HVR 11:12:15 – 11:13:00 (Nov. 3, 2021) (affirming that \$10 million of this amount would be spent in 2021 and the remaining \$7 million would be spent during the test year in 2022).

⁹⁰ See Cross-Examination of Judy M. Cooper, HVR 15:59:30 (Nov. 3, 2021).

⁹¹ See *id.*, HVR 15:57:40 (Nov. 3, 2021).

⁹² See *In the Matter of the Electronic Application of Columbia Gas of Kentucky, Inc. for (1) A Declaration that Construction of a Low Pressure System Safety Improvement is an Extension of its System in the Ordinary Course of Business; (2) in the Alternative, for the Issuance of a Certificate of Public Convenience and Necessity for such*

are comparable, which confirms that no CPCN was required prior to undertaking the work to make Line DE eligible for in-line inspections. This conclusion is fully consistent with the Commission's decision in Case No. 2020-00327, where the Commission denied Columbia's initial request to recover in-line inspection costs through the SMRP Rider, stating:

The Commission having reviewed the evidence of record and being otherwise sufficiently advised, finds that including cost recovery for the ILI Project in the SMRP Rider is not appropriate. Although Columbia Kentucky will not be able to recover the costs associated with the proposed ILI Project through the SMRP mechanism, Columbia Kentucky is not precluded from seeking recovery of these costs in future base rate cases.⁹³

It is undisputed that Line DE is critical to assuring continued reliability and safety of service to multiple large manufacturers and communities. Complying with federal law regarding such a critical piece of infrastructure is also essential. Accordingly, the capital costs of modifications to make Line DE subject to in-line inspections and the O&M costs associated with the inspection program should be recovered in base rates as proposed in Columbia's Application and indicated by the Commission's Order in Case No. 2020-00327.

Construction; (3) Approval of an Amendment and Expansion of its Accelerated Main Replacement Tariff to its Safety Modification and Replacement Tariff; and (4) Approval to Modify the 2019 AMRP Construction Plan, Order, Case No. 2019-00257, pp. 13-15 (Ky. P.S.C. Nov. 7, 2019).

⁹³ See *In the Matter of the Electronic 2021 Safety Modification and Replacement Program Filing of Columbia Gas of Kentucky, Inc.*, Order, Case No. 2020-00327, p. 4 (Ky. P.S.C. Apr. 30, 2021).

8. The Remaining Matters Addressed in the Joint Stipulation are also Fair, Just and Reasonable Within the Context of the Full Agreement

The Joint Stipulation also includes several additional terms that demonstrate how it is fair, just and reasonable when viewed in its entirety. For instance, as part of its Application, Columbia proposed several textual revisions to its tariffs. These include updating Columbia's gas quality standards to provide for a more detailed list of particulate and chemical compounds and levels that Columbia will require any gas to meet when introduced into its system.⁹⁴ It further provides for a more formalized gas quality testing methodology to ensure that any supplier providing gas to Columbia's system has a clear understanding of testing requirements.⁹⁵ Finally, the modified standards set forth the multiple origins of natural gas supply and define which chemical and particulate standards would likely apply to the natural gas origin.⁹⁶ These changes are important to assure that the quality of natural gas on Columbia's pipelines remains consistent and high quality.

Likewise, as part of the Joint Stipulation, Columbia has agreed to withdraw its request for approval of the proposed Tax Act Adjustment Factor tariff.⁹⁷ Should Congress

⁹⁴ See Joint Stipulation, p. 11.

⁹⁵ See *id.*

⁹⁶ See *id.*

⁹⁷ See *id.*, p. 7.

or the General Assembly enact changes in the tax code that impact Columbia, it will raise those issues with the Commission at that time.⁹⁸

The Joint Stipulation further recommends that Columbia's Depreciation Study and related accounting treatments should be approved with an effective date of the new depreciation rates to be the same day that Columbia's new base rates become effective.⁹⁹

In addition, the Joint Stipulation recommends that Columbia should recover its actual rate case expense, as reflected in the Company's November 19, 2021 supplemental information request response, over a three-year period, without carrying charges, beginning on the effective date of the revised rates.¹⁰⁰

C. Columbia's Charge for Seasonal Reconnection Protects Others Customers and is Reasonable and Appropriate

An issue not addressed in the Joint Stipulation but that was a subject of significant cross-examination was the Company's reconnection charge for customers who terminated service on a seasonal basis. Ms. Cooper explained that Columbia currently charges a seasonal reconnect fee that is equal to eight times the existing customer charge.¹⁰¹ The seasonal reconnect fee is not tied to the actual cost of reconnecting service.¹⁰² The purpose of a seasonal reconnect fee is to hold Columbia and other

⁹⁸ See Supplemental Testimony of Judy M. Cooper, pp. 17-18 (Oct. 26, 2021).

⁹⁹ See Joint Stipulation, pp. 11-12.

¹⁰⁰ See *id.*, p. 9.

¹⁰¹ See Cross-Examination of Judy M. Cooper, HVR 9:48:15 (Nov. 3, 2021).

¹⁰² See *id.*, HVR 10:09:08.

customers financially indifferent when a customer disconnects for the non-heating months.¹⁰³ The fee, in essence, collects the fixed costs recovered by Columbia during the eight months that a seasonal customer avoids paying the customer charge by temporarily terminating service.¹⁰⁴ The revenue from the seasonal reconnect fee is accounted for as miscellaneous revenues and credited to Columbia's revenue requirement in the context of a base rate case.¹⁰⁵ According to the Company's filing, the seasonal reconnect fee forecasted for the test year was less than \$100,000.¹⁰⁶ If the Commission were to disallow or diminish the seasonal reconnect fee moving forward, it would need to redistribute the revenue requirement to other base rate components by a like amount.¹⁰⁷

IV. CONCLUSION

Columbia appreciates the time and attention that the Commission, the Staff, the AG and KIUC have devoted to this rate case. The discovery in this case has been far-reaching and detailed. The record demonstrates that the outcome proposed in the Joint Stipulation is fair, just and reasonable in accordance with KRS 278.030. It will allow the Company to earn a modest return while continuing to invest in its system. These investments will make the system safer, more reliable and more efficient. It also allows

¹⁰³ See *id.*, HVR 10:04:35; HVR 10:13:20 – 10:14:28.

¹⁰⁴ See *id.*

¹⁰⁵ See *id.*, HVR 10:10:50; HVR 10:12:07.

¹⁰⁶ See Columbia Gas of Kentucky Response to Post-Hearing Data Request No. 17b (Nov. 19, 2021).

¹⁰⁷ See Cross-Examination of Judy M. Cooper, HVR 10:10:50; HVR 10:12:07; HVR 10:13:20 – 10:14:28 (Nov. 3, 2021).

Columbia to remain compliant with federal law. Approval of the Joint Stipulation also enables Columbia to delay its next increase in base rates for at least three years. This important consumer protection is only available through a bargained-for settlement. Although there may be other adjustments to revenue, rate base, capital costs or other aspects of the Joint Stipulation, it is safe to assume that they were fully evaluated and purposefully excluded from the terms of the agreement. Though one might be tempted to quibble with any particular aspect of the Joint Stipulation or to emphasize any other potential adjustments that could have been included within the Joint Stipulation, the outcome presented in the Joint Stipulation is plainly fair, just and reasonable on its face and should be approved in its entirety and without modification.

WHEREFORE, on the basis of the foregoing, Columbia respectfully requests the Commission to approve the Joint Stipulation in its entirety and without modification and grant it all other relief to which it may be entitled.

This 22nd day of November, 2021.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. S. Samford", written over a horizontal line.

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CERTIFICATE OF SERVICE

This is to certify that this electronic filing has been transmitted to the Commission on November 22, 2021 and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085 no paper copies of this filing will be filed.



Counsel for Columbia Gas of Kentucky, Inc.