BEFORE THE

PUBLIC SERVICE COMMISSION

OF MARYLAND

COLUMBIA GAS OF MARYLAND, INC.'S APPLICATION FOR AUTHORITY TO INCREASE RATES AND CHARGES FOR NATURAL GAS SERVICES	**Case No. 9754**

INITIAL POST-HEARING BRIEF OF THE MARYLAND ENERGY ADMINISTRATION

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I. INTRODUCTION

Columbia Gas has made clear that it will continue with business-as-usual gas infrastructure spending – even for non-leaking and non-priority pipe that poses no risk of harm – until the Maryland Public Service Commission ("Commission") explicitly instructs it to change course. While the legislature and Commission are debating the future of natural gas, all parties can agree that ratepayer affordability is a paramount concern for all Marylanders. The state's legislators are increasingly alarmed at distribution rate increases facing their constituents.[1] Columbia Gas need not wait for a ruling on the future of natural gas; the time to save ratepayer money is now. Just and reasonable rates are always mandatory.[2]

This rate case is an opportunity for the Commission to set important guidance and precedent on how Maryland's gas utilities can limit spending on non-priority pipe replacement while also maintaining safety. For the reasons set forth below, MEA believes Columbia Gas fails to establish a compelling reason for the Commission to approve its request for full recovery for the Louisiana Street Project, and thus asks for a disallowance of at least 38 percent of the project cost.

II. ARGUMENT

The mission of the Maryland Energy Administration ("MEA") is to promote clean, affordable, reliable energy and energy-related greenhouse gas emission reductions to benefit Marylanders in a just and equitable manner. As the state's energy office, MEA has a significant

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[1] *See, e.g.*, HB 419/SB998 Natural Gas - Strategic Infrastructure Development and Enhancement (Ratepayer Protection Act) (2025), available at https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/hb0419; Maryland HB960 Investor–Owned Electric, Gas, and Gas and Electric Companies – Cost Recovery – Limitations and Reporting Requirements (Ratepayer Freedom Act) (2025), available at https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/HB0960; Bazos, Raquel, "Maryland state delegates call for immediate pause on BGE utility rate hikes," *Baltimore Sun*, (January 31, 2025), available at https://www.baltimoresun.com/2025/01/31/delegates-call-for-utility-rate-hike-moratorium/.

[2] Md. Code Ann., Public Util. Art. § 4-201.

interest in reducing utility cost impacts, just as Maryland's regulated utilities are helping the state transition to a clean energy economy to meet the state's greenhouse gas reduction requirements of the Climate Solutions Now Act of 2022 ("CSNA").[3] While safety and reliability of gas service remain paramount concerns, these must be aligned with the evolving long-term electrification and greenhouse gas ("GHG") reduction requirements of the state. Additionally, as more Marylanders choose to electrify their homes and businesses, there may be fewer gas customers left to carry those costs, raising important equity considerations.

In this case, Columbia Gas has a stated revenue requirement of almost $11 million,[4] primarily driven by accelerated gas infrastructure replacement.[5] And although the Company withdrew its 2024-2028 STRIDE application,[6] and its 2025-2029 STRIDE application,[7] this rate case raises an important issue about business-as-usual spending on gas infrastructure replacement – especially for non-priority pipe. As utility bills continue to rise, it is imperative for the Commission to ensure that all infrastructure spending is prudently incurred.

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[3] Chapter 38, Laws of Maryland 2022.
[4] Office of Staff Counsel - Comparison Chart of the Positions of the Parties. Case No. 9754 (ML 315042), 01/21/2025.
[5] Direct Testimony of Nicole Paloney ("Paloney Direct") in Columbia Gas, Application for Authority to Increase Rates and Charges for Natural Gas Services. Public Service Commission ("PSC") Case No. 9754 (ML 312494), Volume 1, p. 203 (p. 5:11-18) (stating that Columbia's accelerated infrastructure improvement, "is the primary driver for this case and has been the primary driver for base rate cases since 2007.")
[6] Strategic Infrastructure Development and Enhancement ("STRIDE") Md. Code., Pub. Util. § 4-210; Columbia Gas withdrew its 2024-2028 STRIDE 3 application after the Public Utility Law Judge's Proposed Order denied parts of the application on grounds that some of the Company's proposed infrastructure spending did not merit accelerated cost recovery. See Columbia Gas of Maryland, Inc. - its Withdrawal of Application for Approval of Columbia's Infrastructure Replacement and Improvement Plan and Surcharge. PSC Case No. 9709 (ML 306270) (November 21, 2023).
[7] Columbia Gas of Maryland, Inc. - Withdrawal of its Application for Authority to Adopt a New Infrastructure Replacement and Improvement Plan and Accompanying Cost Recovery Surcharge Mechanism. PSC Case No. 9751 (ML 314539) (December 30, 2024).

A. BUSINESS AS USUAL GAS INFRASTRUCTURE SPENDING COUNTERS STATE POLICY

Columbia Gas has been on notice that Maryland is moving towards increased home and building electrification. With increasing urgency, the state has continued to update its greenhouse gas reduction goals–from 2009 to 2016, to 2021, to 2022.[8] Through the CSNA in 2022, the General Assembly communicated its urgent intent to move the state towards electrification, in both transportation and buildings – and to do so equitably. The CSNA also mandated that all state agencies consider the likely impact of their decisions on disproportionately affected communities.[9] Governor Moore's 100 Percent Clean Energy Executive Order of 2024, echoed and amplified these concerns.[10] One of the goals of the 2024 WARMTH Act,[11] which mandates a pilot project for networked geothermal, is to help determine how gas utilities can "avoid costs related to gas pipe replacement."[12] Finally, the General Assembly now requires participating gas and electric utilities to incorporate customer beneficial electrification measures (such as electric heating and cooling methods) into their EmPOWER programs.[13]

Meanwhile, Maryland regulators have also repeatedly urged the state's gas utilities to rein in gas infrastructure spending. The Maryland Public Service Commission stated that Washington Gas "must consider all cost-effective non-pipeline alternative options available to defer, reduce,

[8] Greenhouse Gas Emissions Reduction Act of 2009, 2009 Md. Laws Ch. 171; Reauthorization, 2016 Md. Laws Ch. 11; the Maryland Commission on Climate Change (MCCC) Building Energy Transition Plan (2021), available at https://mde.maryland.gov/programs/air/ClimateChange/MCCC/Documents/2021%20Annual%20Report%20Appendices%20FINAL.pdf.
[9] Md. Code, Environ. Art. § 2-1305
[10] EXECUTIVE ORDER 01.01.2024.19 (June 2024)
[11] Chapter 564, Laws of Maryland 2024, codified as Md. Code, Pub. Util. Art. § 7-1101 et seq.
[12] Md. Code, Pub. Util. Art. § 7-1102(b)(6)(vi).
[13] Chapter 539, Laws of Maryland 2024; Public Util. Art. § 7-220. While Columbia Gas is exempt from this law, Potomac Edison, which provides electric service in parts of Columbia Gas' Maryland service territory, is not. See PSC Case No. 9705, Revised EmPOWER plans.

or remove the need to construct or upgrade components of their natural gas systems, and not solely pursue infrastructure replacement, in order to prudently justify their system safety and reliability spending in the future."[14] The Commission has denied recovery when those dictates are not met.[15] Nonetheless, Columbia has dismissed these policy and regulatory actions as premature or inapplicable, and staked its position: it will not make any changes to its business-as-usual gas infrastructure spending unless the Public Service Commission or Maryland General Assembly explicitly instructs it to do so.[16]

B. COLUMBIA'S INVESTMENT IN REPLACING NON-PRIORITY PIPE RISKS RATEPAYER MONEY

A pipe is not a pipe. Columbia has eliminated 86 percent of what is widely considered to be priority pipe – cast iron and bare steel pipe – since 2009, and eliminated all its known cast iron pipe in 2020.[17] However, the Company's proposed spending on its infrastructure replacement program has continued to increase. The Company's capital expenditures for its Age & Condition infrastructure program (which includes STRIDE replacements) have increased from

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[14] Order 90943, PSC Case No. 9704, Washington Gas, (December 2023) at p. 135. The Commission on rehearing clarified that this statement only applied to Washington Gas but also stated that other utilities could address this matter in the 9707 Future of Gas docket and in their own rate cases. (Order 91079, Case No. 9704, Washington Gas, March 28, 2024 at p. 65, FN65.)

[15] Order in Baltimore Gas & Electric PSC Case No. 9692, (December 14, 2023) at p. 143 the Commission denied recovery of $145M in a transmission pipe recovery program because BGE did not adequately address non-pipeline alternatives or the "long-term future of gas."

[16] See PSC Case No. 9754, Columbia Gas Rebuttal Testimony of Nicole Paloney, ML 314241 at p. 8-10 (Dec. 13, 2024) (stating that MEA's position is based on policy changes "that have not yet come about" and stating that "Absent any policy changes regarding this obligation, I note that the nature of the Company's infrastructure replacement program prioritizes the replacement of risky and the most maintenance-intensive pipe in the distribution system, which indicates that the pipe prioritized for replacement in the program is approaching the end of its useful life." Ms. Paloney also pointed out that in Order 91079 the Commission clarified that its holding in the Washington Gas case 9704 did not (yet) explicitly apply to other gas utilities.) This argument suggests that Columbia denies any duty to limit the amount of non-priority pipe where possible, or otherwise document more robust consideration of alternatives to wholesale pipe replacement.

[17] See Paloney Direct at p. 9:7.

approximately $5 million in 2009 to more than $35 million in 2023.[18] Columbia states that it will continue to replace the remaining priority pipe (such as bare steel and some types of pre-1982 vintage plastic) on an accelerated basis.[19] One issue raised in this case, however, is the amount of non-priority pipe, or "contingency pipe" such as post-1981 plastic or pre-1971 coated steel cathodically protected, that Columbia replaces – whether accelerated or not – along with its priority pipe.

As the Public Utility Law Judge (PULJ) noted in Columbia's 2023 STRIDE 3 case, the percentage of Columbia' non-priority pipe replacements has increased "significantly," especially when compared with other Maryland gas utilities.[20] Also concerning to the PULJ was that "Columbia has exceeded budget estimates in both STRIDE 1 and STRIDE 2, as the proportion of contingency pipe in recent years has increased at the same time."[21] In that STRIDE case, the PULJ adopted Staff's recommendation of limiting recovery of up to 10 percent non-priority pipe.[22] The Company withdrew its application six days later.[23] Thus, the Commission did not consider or adopt the PULJ's recommendation. This scenario was repeated in the Company's 2025-2029 STRIDE case in December 2024, when the PULJ again objected to the amount of contingency pipe the

[18] See PSC Case No. 9754, Direct Testimony of Maryland Energy Administration, Joyce Lombardi at Exhibit 1, Columbia Response to Staff DR 2-024, Attachment A (ML 313802) (Nov. 22, 2024).
[19] Direct Testimony of Raymond Brumley ("Brumley Direct") at p. 11:1-8 in Columbia Gas, Application for Authority to Increase Rates and Charges for Natural Gas Services, PSC Case No. 9754 (ML 312494), Volume 2, p. 22 (Sept. 24, 2024).
[20] Public Utility Law Judge Division - Proposed Order. Case No. 9709 (ML 306126) (Nov. 15, 2023), at p. 43
[21] Id.
[22] Id., at p. 41-43 (finding, on Staff's recommendation, that pre-1971 coated steel cathodically protected is non-priority pipe and finding 10 percent contingent pipe to be a reasonable benchmark on a case-by-case basis. The PULJ noted that Witness Staff Acosta considered post-1981 plastic pipe to be contingent).
[23] *See* Columbia Gas of Maryland, Inc. - its Withdrawal of Application for Approval of Columbia's Infrastructure Replacement and Improvement Plan and Surcharge. Case No. 9709 (ML 306270) (November 21, 2023).

Company had included and recommended a 10 percent cap.[24] One week later, the Company withdrew its application.[25]

Now, in this case, Columbia seeks recovery for, among other things, a portion of the $1.3 million 2024 Louisiana Street Project in Cumberland, Maryland that "includes replacing low pressure bare steel and other eligible pipe with medium pressure plastic pipe on Louisiana Ave, Montgomery Ave, Memorial Ave, and a couple of side streets."[26] The project was scheduled to be completed in December, 2024, after the test year and the pro-forma period of October 2024 and November 2024, and after the rate case was filed.[27] In discovery, the Company indicated that the project includes over 2,000 feet (or 33%) of "post-1981 plastic" and 933 feet (almost 15%) of "pre-1971 coated steel."[28] Post 1981 plastic pipe is generally not priority pipe,[29] but the Company stated that "the majority of Post-1981 Plastic to be abandoned is needed to maintain the integrity of the system as medium pressure is infiltrated."[30] The Company did not specify if the pre-1971 coated steel pipe was cathodically protected or not. Non-cathodically protected pre-1971 coated steel pipe likely would be considered priority pipe, not contingency pipe.[31] However the Company's federal filings indicate it has no coated steel.[32] In a proceeding involving a change in rate, the burden of

[24] Public Utility Law Judge Division - Proposed Order. Case No. 9751 (ML 314467) (December 23, 2024) at p. 58 (noting that the Company has been replacing an increasing amount of contingency pipe to the point where it has exceeded the amount of priority pipe replaced. In 2023, contingency pipe represented approximately 236% more than priority pipe replaced).
[25] PSC Case No. 9751, Columbia Gas of Maryland, Inc. - Withdrawal of its Application for Authority to Adopt a New Infrastructure Replacement and Improvement Plan and Accompanying Cost Recovery Surcharge Mechanism. (ML 314539) (December 30, 2024).
[26] PSC Case No. 9754, MEA Exhibit 3, Attachment B (ML 313802) (Nov. 22, 2024).
[27] PSC Case No. 9754, MEA Exhibit 4, Attachment A (ML 313802) (Nov. 22, 2024).
[28] Id.
[29] Public Utility Law Judge Division - Proposed Order. Case No. 9751 (ML 314467) (December 23, 2024) at p. 43.
[30] PSC Case No. 9754, MEA Exhibit 4, Attachment A (ML 313802) (Nov. 22, 2024).
[31] Public Utility Law Judge Division - Proposed Order. Case No. 9751 (ML 314467) (December 23, 2024) at p. 43 (discussing cathodically protected vs non-cathodically protected pre 1971 steel pipe).
[32] See Columbia's 2023 Form F7100-1.1 filed with PHMSA, available at https://www.phmsa.dot.gov/data-and-statistics/pipeline/operator-information, by going to Operator Search and looking up Columbia Gas of Maryland Inc.

proof is on the proponent of the change.[33] Based on the data, and since the Company has not met its burden of proof, MEA is assuming that the coated steel is cathodically protected, thus bringing the total of non-priority pipe to 48%. Therefore, MEA estimates that at least 38% of the pipe involved in the Louisiana Street Project exceeds the PULJ's recommended 10% cap.

On rebuttal, OPC also agreed with MEA that the Company's use of 33% post-1981 plastic non-priority pipe made it unclear if "the entirety of expenditures associated with this project were necessary to alleviate a safety concern."[34] OPC, however, recommended a full disallowance of $884,955 for the Louisiana Street Project because the project was not scheduled to be completed until December 2024, outside of the test-year and pro-forma periods (October 2023 to November 2024)"[35] MEA would have no objection to a full disallowance for this project on those grounds. Should the Commission choose to allow the Company to recover for installing pipe that was due to be completed in December, 2024, however, MEA would request that the Commission adopt a case-by-case limit on contingent non-priority pipe in replacement projects - whether STRIDE or rate base. MEA would particularly support a limit on non-priority pipe that is located at the edges of the project, and not located between priority pipe segments.

While Columbia argues that the PULJ proposed order only applies to accelerated recovery under STRIDE,[36] this argument is unavailing. A rate case requires prudency and the Company has not met its burden to prove that its entire Louisiana Street project is prudent.

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[33] Pub. Util. Art. § 3-112.
[34] PSC Case No. 9754, Office of People's Counsel, Surrebuttal of Colin T. Fitzhenry at p. 11:10-12 (ML 314978) (Jan. 16, 2025). OPC's witness did not mention the 15% of pre-1971 coated steel.
[35] Fitzhenry Surrebuttal at p. 8: 7-9; p. 10:7-10 (stating that the pro forma period took place after the company filed its rate case application).
[36] PSC Case No. 9754, Columbia Gas, Rebuttal Testimony of Raymond Brumley, at p. 2 (ML 314241) (Dec. 13, 2024).

C. RATEPAYER MONEY IS ALWAYS PRECIOUS AND THE COMMISSION SHOULD ACT NOW.

Columbia's own data show that natural gas demand is decreasing.[37] The Company countered that the number of customer accounts is increasing.[38] However, OPC calculated that, for a number of reasons, the increase in Columbia's gas customers is "far too small to result in increasing overall gas demand."[39] While evidence of declining throughput helps support the idea that fewer gas customers will be left to pay for stranded assets, it is not necessary for the Commission to act. Utilities do not need a statewide ban on fossil fuel usage – or even a precipitous drop in gas throughput – to control accelerated spending on gas infrastructure: just and reasonable rates are always mandatory in Maryland.[40]

III. CONCLUSION

Columbia Gas has failed to meet this burden as it pertains to the Company's ratepayer investment in non-priority pipe replacement in, at a minimum, the Louisiana Project. If the Commission seeks to allow the Company to recover for this project, MEA requests that the Commission adopt a case-by-case limit on contingent non-priority pipe in replacement projects - whether STRIDE or rate base. MEA would particularly support a limit on non-priority pipe that is located at the edges of the project, and not located between priority pipe segments.

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[37] See PSC Case No. 9754, Direct Testimony of Maryland Energy Administration, Joyce Lombardi at p. 3 (ML 313802) (Nov. 22, 2024).
[38] See Rebuttal Testimony of Nicole Paloney at pp. 1 and 2
[39] Fitzhenry Surrebuttal, Office of People's Counsel, p. 3: 12-16.
[40] Md. Code Ann., Public Util. Art. § 4-201.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of February, 2025, a true and correct a copy of the foregoing was e-served on this date to the parties of record in PSC Case No. 9754.

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