

## BEFORE

## THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The )  
 Cincinnati Gas & Electric Company for )  
 Approval of a Reasonable Arrangement )  
 with Franklin Boxboard Corporation and ) Case No. 02-563-GA-AEC  
 an Amendment Thereto for Transporting )  
 Gas Pursuant to Revised Code Section )  
 4905.31. )

In the Matter of the Application of The )  
 Cincinnati Gas & Electric Company for )  
 Approval of a Reasonable Arrangement )  
 with Middletown Paperboard Corporation ) Case No. 02-571-GA-AEC  
 and an Amendment Thereto for )  
 Transporting Gas Pursuant to Revised )  
 Code Section 4905.31. )

FINDING AND ORDER

The Commission finds:

- (1) The Applicant, Duke Energy Ohio, Inc. (Duke),<sup>1</sup> is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission. The Franklin Boxboard Corporation (FBC) located in Franklin, Ohio and the Middletown Paperboard Corporation (MPC) located in Middleton, Ohio are both manufacturing plants and existing transportation customers of Duke. Section 4905.31, Revised Code, authorizes reasonable arrangements between a gas utility and its customers, conditioned upon approval by the Public Utilities Commission of Ohio (PUCO or Commission).
- (2) On March 1, 2002, Duke entered into a Transportation Agreement for Duke to provide full requirements natural gas transportation service to facilities owned by FBC and MPC to serve their manufacturing plants located in Ohio. Duke agreed to act as transporter for natural gas delivered onto their system by both FBC

<sup>1</sup> At the time the applications in these proceedings were filed, the applicant was known as the Cincinnati Gas & Electric Company. Since that time, it participated in a merger transaction, approved by this Commission in Case No. 05-732-EL-MER, as a result of which it is now known as Duke Energy Ohio, Inc.

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and MPC and redelivered onto both companies' facilities, as defined in the contracts. Both arrangements specify a one year term, starting from the date the agreements are filed with the Commission and shall continue month to month thereafter, until terminated upon a 30-day notice.

- (3) Both arrangements submitted by Duke are for firm and interruptible transportation service, with a minimum bill provision. FBC and MPC are to receive a small volume of firm service which acts to keep plant equipment operating at minimum safety levels during times of ordered interruptions. All remaining monthly volumes are to be served under interruptible transportation service in which the transportation rate has been flexed below the tariffed interruptible transportation (IT) rate. Duke has offered the flex-pricing in exchange for each customer's commitment to convert all fuel-burning plant equipment from alternative fuels to dual/tri fuel capability and to make natural gas the energy source of choice. This economic development extends to promote the addition of new plants and equipment in the future. Both arrangements contain a fixed monthly customer charge and stated minimum annual throughput levels, balancing requirements, applicable riders, and an allowance for unaccounted-for gas, as described in more detail in Attachment I of each application.
- (4) Duke has amended both agreements to modify the minimum bill provision for the remaining terms. This amendment will allow FBC and MPC to use fuel oil instead of natural gas to satisfy the minimum bill requirement and to provide a formula by which the amount of fuel oil usage is treated as an equivalent volume of natural gas usage for the purpose of calculating the transportation charges.
- (5) The Commission has reviewed the applications and finds them to be reasonable and in the public interest. The applications should be approved. Our approval of these contracts does not constitute state action for the purposes of the antitrust laws. It is not our intent to insulate the applicant or any party to the contracts approved by this Finding and Order from the provisions of any state or federal law which prohibit the restraint of trade.

It is, therefore,

ORDRED, That the arrangements described in the applications be approved. It is, further,

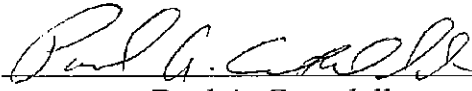
ORDERED, That any future amendments or modifications made to the contracts must receive prior Commission approval. It is, further,

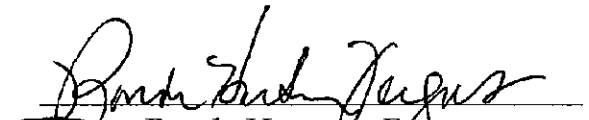
ORDERED, That the Commission's approval of these contracts does not constitute action for the purpose of the antitrust laws. It is, further,

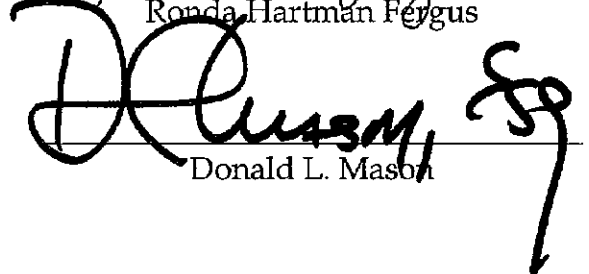
ORDERED, That a copy of this Finding and Order be served upon the Applicant, Franklin Boxboard Corporation, and Middletown Paperboard Corporation, and all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

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Alan R. Schriber, Chairman

  
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Paul A. Centolella

  
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Ronda Hartman Fergus

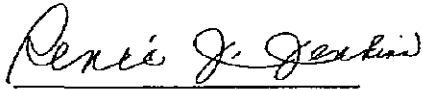
  
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Donald L. Mason

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Valerie A. Lemmie

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Entered in the Journal

OCT 31 2007

  
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Renee J. Jenkins

Renee J. Jenkins  
Secretary