

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Regulation of the)
Purchased Gas Adjustment Clause)
Contained Within the Rate Schedules of) Case No. 10-213-GA-GCR
Piedmont Gas Company and Related)
Matters.)

OPINION AND ORDER

The Public Utilities Commission of Ohio, having considered the evidence and relevant provisions of the Revised Code and Ohio Administrative Code, and being otherwise fully advised, hereby issues its Opinion and Order.

APPEARANCES:

Piedmont Gas Company, 159 Stone Creek Road Northwest, New Philadelphia, Ohio 44663.

Richard Cordray, Ohio Attorney General, by William L. Wright, Section Chief, and Werner Margard III, Assistant Attorney General, Public Utilities Section, 180 East Broad Street, 6th Floor, Columbus, Ohio 43215-3793, on behalf of the staff of the Public Utilities Commission of Ohio.

OPINION:

I. INTRODUCTION

Piedmont Gas Company (Piedmont or company) is a natural gas company as defined by Section 4905.03(A)(5), Revised Code, and a public utility as set forth in Section 4905.02, Revised Code. Piedmont is also a gas company within the meaning of Section 4905.302(C), Revised Code.

Pursuant to Section 4905.302(C), Revised Code, the Commission promulgated rules for a uniform purchased gas adjustment clause to be included in the schedules of gas or natural gas companies subject to the Commission's jurisdiction. These rules, which are set forth in Chapter 4901:1-14, Ohio Administrative Code (O.A.C.), separate the jurisdictional cost of gas from all other costs incurred by the gas or natural gas company, and provide for each company's recovery of these costs.

Section 4905.302, Revised Code, also directs the Commission to establish investigative procedures, including periodic reports, audits, and hearings to examine the arithmetic and accounting accuracy of the gas costs reflected in each company's gas cost recovery (GCR) rates and to review each company's production and purchasing policies and their effect upon these rates. Pursuant to such authority, the Commission adopted Rule 4901:1-14-07, O.A.C., which identifies how periodic financial and management/performance audits of gas or natural gas companies shall be conducted. Rule 4901:1-14-08(A), O.A.C., requires the Commission to hold a public hearing at least 60 days after the filing of the required audit reports. Rule 4901:1-14-08(C), O.A.C., specifies that notice of the hearing be published at least 15 days, but not more than 30 days, prior to the date of the scheduled hearing.

Pursuant to Rule 4901:1-14-07(C), O.A.C., the Commission Entry of January 20, 2010, directed that the Commission's staff (staff) conduct an audit of Piedmont's GCR rates for the period June 1, 2008 through May 31, 2010. Further, the January 20, 2010 entry established the due date for staff's audit report, scheduled the hearing in this matter to commence on November 9, 2010, and directed Piedmont to publish notice of the hearing. On November 4, 2010, staff filed a motion seeking a continuance of the scheduled hearing until November 24, 2010. Pursuant to the attorney examiner entry of November 8, 2010, the requested continuance was granted. Staff filed its audit report with the Commission on August 17, 2010 (Commission-Ordered Ex. 1).

Rule 4901:1-14-08(C), O.A.C., specifies that notice of the hearing be published in a newspaper(s) of general circulation throughout the company's service area, by bill insert, bill message, or direct mail to customers. On November 22, 2010, Piedmont submitted an affidavit stating that notice was provided to customers along with their monthly bills on November 5, 2010. A copy of the notice was included in the filing with the affidavit. Subsequently, on December 15, 2010, staff filed a copy of the legal notice as a late-filed exhibit (Piedmont Late-Filed Exhibit). Thus, notice was properly provided pursuant to bill insert in accordance with the rule. The hearing was held, as rescheduled, on November 24, 2010. At hearing, Piedmont and staff submitted a Joint Stipulation and Recommendation (stipulation) (Joint Ex. 1), resolving all the issues in this matter. In the stipulation, Piedmont agrees to all the recommendations set forth in the audit report.

II. AUDIT REPORT

Pursuant to the Commission entry issued January 20, 2010, a certificate of accountability, attested to by staff, was submitted as part of the audit report (Commission-Ordered Ex. 1 at 1). By its certificate of accountability, staff stated that it had audited for conformity with the procedural aspects of the uniform purchase gas adjustment rules, as set forth in Chapter 4901:1-14, O.A.C., and related appendices, as well as the Commission entry issued January 20, 2010. Staff noted that Piedmont has accurately calculated the

GCR rates for those periods under investigation, in accordance with the uniform purchased gas adjustment rules as set forth in Chapter 4901:1-14, O.A.C., except for those instances noted in the audit report.

A. General

Piedmont is headquartered in New Philadelphia, Ohio, and received approval from the Commission to operate as a natural gas public utility in December 1987. Piedmont, which is founded and owned by Rick and Jo Mako, initially served the village of Freeport in Harrison County and now serves clusters of customers in Harrison, Tuscarawas, Holmes, Coshocton, and Guernsey counties. Piedmont provides natural gas distribution service to 1,721 residential, commercial, and industrial sales customers. The company provides transportation services to 13 customers. (*Id.* at 3.) Historically, the company primarily has relied upon the availability of locally produced gas to serve its customers' requirements. This gas supply consisted of purchases from 14 local producers during the audit period. (*Id.* at 3, 16.) Inasmuch as Piedmont does not rely upon interstate pipeline connections to fully or partially meet its supply requirements, Piedmont has turned to the East Ohio Gas Company d/b/a Dominion East Ohio, a neighboring local distribution company, to interconnect with as a source of supply, thereby providing indirect access to interstate supplies (*Id.* at 3).

During the audit period, Piedmont continued to add new distribution mains and further consolidate many of its dispersed customers into a more integrated system. However, the audit report notes that the Piedmont system still has many small customer groups that are being served from gathering lines of producers in the area. The audit report also notes that the company's system is relatively new and less prone to leakage. Additionally, the audit report reflects that the company utilizes temperature-compensating meters that provide for more accurate measurement during the cold weather months and assist the company in more accurately accounting for gas sales volumes, further helping to reduce unaccounted-for gas volumes. (*Id.* at 4.)

B. Expected Gas Cost

Staff reviewed Piedmont's calculation of its expected gas cost (EGC) for the audit period. The EGC mechanism attempts to match future gas revenues for the upcoming quarter with the anticipated cost to procure gas supplies. During the first year of the audit period, a slight error was noted in the purchase volumes in a single month and during the second year of the audit period, the same purchase volumes were reported for two consecutive quarters. Staff also noted four instances of errors in sales volumes reported by the company in its GCR filings. Staff recommended that the company reverify purchase

and sales volumes prior to making its monthly GCR filings with the Commission. (*Id.* at 5.)

C. Actual Adjustment

The actual adjustment reconciles the monthly cost of purchased gas with the billed EGC rate. The actual adjustment is calculated by dividing the total cost of gas purchases for each month of the three-month reporting quarter by total sales for those respective months. This calculation provides the cost incurred by the company for procuring each one thousand cubic feet of gas sold for the month, which is sometimes referred to as the unit book cost of gas. The difference between the unit book cost of gas for the month and the EGC is multiplied by the jurisdictional sales for the month, in order to identify the total under- or over-recoveries of gas costs. The monthly under- or over-recoveries are summed and divided by the 12-month historic jurisdictional sales to develop an actual adjustment rate to be included in the GCR for four quarters. Errors in the actual adjustment can result from the use of incorrect purchase gas costs or sales volumes and/or the wrong EGC rate. (*Id.* at 6.)

Staff determined that Piedmont's calculation of the actual adjustment, in comparison with the audit results, requires a reconciliation adjustment. Specifically, staff reviewed the applicable purchase invoices and monthly billing registers and, as noted in the previous section of this opinion and order, found errors in four months' sales volumes. These errors were due to a single month in which a corrected meter reading was not carried through to the actual adjustment, and an instance in which the same sales volumes were filed for two consecutive quarters. Additionally, during one quarter, the company used an EGC rate other than that which was billed to customers. Therefore, staff concluded that a reconciliation adjustment is necessary, in the amount of \$32,520, in the customers' favor. Staff recommended that this adjustment be included in the company's first GCR filing following the opinion and order in this case. (*Id.*)

D. Refund and Reconciliation Adjustment

In the prior financial audit, *In the Matter of the Regulation of the Purchased Gas Adjustment Clause Contained Within the Rate Schedules of Piedmont Gas Company and Related Matters*, Case No. 08-213-GA-GCR (08-213), the company was ordered to implement a reconciliation adjustment of \$244,267.06, which addressed the differences between staff's and the company's calculated actual adjustment, refund and reconciliation adjustment, and balance adjustment calculations. Staff noted, in the audit report in the instant case, that omissions in its prior audit calculations were discovered during this audit. These omissions resulted in a reduction to the refund and reconciliation adjustment that was ordered during the prior audit. In addition, for seven months out of the audit period, staff

noted that the company billed approximately twice the Commission-ordered refund and reconciliation adjustment rate and that, in combination with the omissions in staff's prior audit calculations, this resulted in a large over-collection by the company (Staff noted that the reconciliation of this over-collection is included in the balance adjustment calculation.). Staff, therefore, recommended that Piedmont e-mail its GCR filings to staff for review at least one week prior to filing them with the Commission. (*Id.* at 11.)

E. Balance Adjustment

The balance adjustment mechanism corrects for under- or over-recoveries of previously calculated actual adjustments and refund and reconciliation adjustments. Errors detected in the balance adjustment generally are the result of incorrectly reported sales volumes, but also may be due to selecting an incorrect previous actual adjustment, refund and reconciliation adjustment, or balance adjustment rate for the purpose of calculating a given quarter's balance adjustment. As previously stated in the EGC section of this opinion and order, the staff report found errors in sales volumes in four months of the audit period. Staff noted that it has included the corrected volumes in its balance adjustment calculation. (*Id.* at 12.)

With respect to the prior audit period, staff discovered during this audit that it inadvertently had omitted some critical information from its calculation of the prior audit's balance adjustment. Staff noted that these omissions have now been fully accounted for and will be reconciled during this audit proceeding and throughout the next audit period. (*Id.*)

Staff recommended a reconciliation adjustment in the amount of \$152,657 in the Customers' favor. Further, this adjustment should be applied in the first GCR filing following the opinion and order in this case. (*Id.*)

F. Unaccounted-For Gas

Unaccounted-for gas (UFG) is the difference between gas purchases volumes and sales volumes. It is calculated on a 12-month basis, generally ending in one of the summer months so as to minimize the effects of unbilled volumes on the calculation. Rule 4901:1-14-08(F)(3), O.A.C., specifies that the Commission may adjust a company's future GCR rates as a result of UFG above a reasonable level, presumed to be no more than five percent for the audit period. Staff noted that, in this case, the UFG level is negative, indicating a difference in the temperature-compensated sales meters and the nontemperature-compensated purchase meters, and that the temperature-compensated meters tend to be more accurate regardless of temperature changes. Staff had no recommendations in this area. (*Id.* at 13.)

G. Customer Billing

Staff randomly sampled and reviewed the GCR and customer service base rate charges applied to customer bills during the audit period. Staff selected customers from the company's monthly billing registers and recalculated their bills. Staff then compared its recalculated bills to the customer billing register to determine if there were any differences. Staff found that the company accurately billed its customers per the GCR rates filed monthly with the Commission. Staff had no recommendations in this area. (*Id.* at 14.)

H. Management Issues

The audit report states that Piedmont appears to have adequate supply planning and procurement capabilities and processes in place, given a company of its size and available resources. It continues to develop its infrastructure so as to be better able to loop and interconnect more of its system over time. Accordingly, staff made no recommendations as to management issues at this time. (*Id.* at 16.)

III. STIPULATION

As noted above, on November 24, 2010, the parties filed a stipulation. The parties agreed, *inter alia*, to the following:

- (1) Piedmont has fairly and accurately calculated the GCR rates for the effective three-month periods ending August 31 and November 30, 2008; February 28, May 31, August 31, November 30, 2009; and February 28 and May 31, 2010, in accordance with the provisions of Chapter 4901:1-14, O.A.C., and the related appendices, except for those instances noted in the audit report.
- (2) Piedmont will implement staff's recommendations contained in the audit report and the following audit recommendations:
 - (a) Piedmont will reverify purchase and sales volumes prior to making its monthly GCR filings with the Commission.
 - (b) Piedmont will make a reconciliation adjustment in the amount of \$32,520, in the customers' favor, to account for errors made in the actual

adjustment. This adjustment will be applied in the first GCR filing following the opinion and order in this case.

- (c) Piedmont will make a reconciliation adjustment in the amount of \$152,657, in the customers' favor, to account for errors made in the balance adjustment. This adjustment will be applied in the first GCR filing following the opinion and order in this case.
 - (d) Piedmont will e-mail its GCR filings to staff for review at least one week prior to filing them with the Commission.
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- (3) Piedmont's level of UFG for the audit period under review is reasonable and within the requirements of the Commission's rules.
 - (4) Piedmont has caused notice of the hearing in this proceeding to be published by a bill insert included with its customer bills, and the publication complies with Rule 4901:1-14-08(C)(1), O.A.C.
 - (5) The stipulation is supported by the record, represents a just and reasonable resolution of the issues involved, violates no regulatory principle or precedent, and is in the public interest.
 - (6) The parties agree that the foregoing stipulation is in the best interests of the parties, and urge the Commission to adopt the same.

IV. CONCLUSION

Rule 4901-1-30, O.A.C., authorizes parties to Commission proceedings to enter into a stipulation. 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 all 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, 1994); *Ohio Edison Co.*, Case No. 91-698-EL-FOR et al. (December 30, 1993); *Cleveland 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:

- (a) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (b) Does the settlement, as a package, benefit ratepayers and the public interest?
- (c) 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. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559 (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.*).

Based on our three-pronged standard of review, we find that the first criterion, that the process involved serious bargaining by knowledgeable, capable parties, is met. The parties to these negotiations have been involved in many GCR cases before the Commission. The stipulation filed in this case also meets the second criterion. As a package, the stipulation advances the public interest by resolving the issues raised by the audit of the company's gas costs. Finally, the stipulation does not violate any important regulatory principle or practice. See, *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St. 3d 123 (1992). In the Commission's consideration of this matter, we believe that the company accurately determined and billed the GCR rates during the audit period and accurately applied those rates to customers' bills during the audited period, except for those instances previously discussed. Upon review of the stipulation filed in this proceeding, we conclude that the terms and conditions contained therein represent a reasonable resolution of the issues in this case. Accordingly, the stipulation should be adopted in its entirety.

After reviewing the stipulation and the evidence of record, the Commission concludes that the terms of the stipulation represent a reasonable resolution of all aspects of this case. Therefore, the stipulation filed on November 24, 2010, should be adopted in its entirety.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Piedmont Gas Company is a natural gas company within the meaning of Sections 4905.03(A)(5), Revised Code, and, as such, is a public utility subject to the ongoing supervision and jurisdiction of the Commission.
- (2) Section 4905.302, Revised Code, and Rule 4901:1-14-07, O.A.C., require the Commission to review the purchased gas adjustment clause contained within the tariffs of each gas and natural gas company on an annual basis, unless otherwise ordered by the Commission.
- (3) This proceeding was initiated by Commission entry issued January 20, 2010, to review the gas procurement practices and policies of Piedmont, the operation of its purchased gas adjustment clause, and other related matters. The public hearing in this matter was held on November 24, 2010.
- (4) Staff of the Commission conducted a financial audit of Piedmont. Results of the audit and a certificate of accountability were filed with the Commission on August 17, 2010.
- (5) The financial audit conducted by staff was performed in compliance with Section 4905.302, Revised Code, and Chapter 4901:1-14, O.A.C.
- (6) Staff determined that Piedmont has fairly determined the GCR rates in accordance with the uniform purchased gas adjustment clause, as set forth in Chapter 4901:1-14, O.A.C., and related appendices, except as specifically noted in Section II of this order.
- (7) Notice of the hearing was provided pursuant to bill insert on November 5, 2010.

- (8) No public witnesses appeared to testify at the November 24, 2010, hearing. At the hearing, the stipulation was submitted, intending to resolve all issues in this case.
- (9) The stipulation meets the criteria used by the Commission to evaluate stipulations, is reasonable, and should be adopted.
- (10) Except as otherwise noted in the audit report, Piedmont accurately determined its GCR rates for the audit period and applied the GCR rates to customer bills in accordance with the financial and procedural aspects of Chapter 4901:1-14, O.A.C. Accordingly, the gas costs passed through the company's GCR rate for the audit period were fair, just, and reasonable, except to the extent noted in this decision.

ORDER:

It is, therefore,

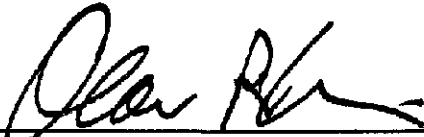
ORDERED, That the stipulation filed on November 24, 2010, by staff and Piedmont be adopted. It is, further,

ORDERED, That Piedmont take all of the necessary steps to carry out the terms in the stipulation and be prepared to discuss its efforts with the next auditor. It is, further,

ORDERED, That the next auditor review Piedmont's compliance with the terms of the stipulation and this opinion and order. It is, further,

ORDERED, That a copy of this opinion and order be served upon all parties and interested persons of record.

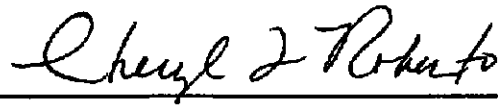
THE PUBLIC UTILITIES COMMISSION OF OHIO


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Renee J. Jenkins

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Secretary