

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. 12-216-GA-GCR  
Suburban Natural Gas Company and )  
Related Matters. )

In the Matter of the Uncollectible )  
Expense Rider of Suburban Natural Gas ) Case No. 12-316-GA-UEX  
Company and Related Matters. )

OPINION AND ORDER

The Public Utilities Commission of Ohio, having considered the evidence and the stipulation and recommendation presented by the parties, and being otherwise fully advised, hereby issues its opinion and order.

APPEARANCES:

William J. Michael, 2626 Lewis Center Road, Lewis Center, Ohio 43035-9206, on behalf of Suburban Natural Gas Company

Mike DeWine, Ohio Attorney General, by Werner L. Margard III and Ryan P. O'Rourke, Assistant Attorneys General, 180 East Broad Street, Columbus, Ohio 43215-3793, on behalf of Staff of the Public Utilities Commission of Ohio.

SUMMARY OF THE PROCEEDINGS:

Suburban Natural Gas Company (Suburban) is a gas company and a natural gas company as defined in Sections 4905.03(A)(4) and (5), Revised Code, and a public utility under Section 4905.02, Revised Code. Pursuant to Section 4905.302, 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 contained in Chapter 4901:1-14, Ohio Administrative Code (O.A.C.), separate the jurisdictional cost of gas from all other costs incurred by a 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 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.

On January 23, 2012, the Commission initiated Case No. 12-216-GA-GCR in order to review the operation of the purchased gas adjustment clause and the gas purchasing practices and policies of Suburban. The entry established the financial audit period, set the deadline for filing the financial audit report, and instructed Staff to perform the financial audit for the period March 1, 2010, through February 29, 2012. By this same entry, the Commission scheduled a hearing date of October 30, 2012, and directed Suburban to publish notice of the hearing.

On March 19, 2008, the Commission authorized Suburban to establish an uncollectible expense (UEX) rider. *In the Matter of the Application of Suburban Natural Gas Company for Authority to Increase its Rates and Charges in Certain Areas of its Service Territory*, Case No. 07-689-GA-AIR, Opinion and Order at 5, 9. On April 3, 2008, Suburban filed revised tariff pages with a proposed initial UEX rider rate of \$0.07012727 per thousand cubic feet (Mcf) and, on April 16, 2008, the Commission approved Suburban's request for the initial UEX rider rate (*Id.*). On July 23, 2009, the Commission authorized Suburban to increase its UEX rider to \$0.08641518 per Mcf. *In the Matter of the Application of Suburban Natural Gas Company for Approval of an Adjustment to Its Uncollectible Expense Rider*, Case No. 09-438-GA-UEx, Entry at 1. On October 3, 2011, the Commission approved an application by Suburban to decrease its UEX rider to \$0.05699811 per Mcf. *In the Matter of the Application of Suburban Natural Gas Company for Approval of an Adjustment to Its Uncollectible Expense Rider*, Case No. 11-316-GA-UEx, Finding and Order at 1.

On January 23, 2012, the Commission issued an entry initiating Case No. 12-316-GA-UEx, for the purpose of the audit of Suburban's UEX rider, the filing of the UEX status report, and other related matters for the period January 1, 2009, through December 31, 2011.

Staff conducted the GCR financial audit and the UEX audit pursuant to the Commission's January 23, 2012, entry in these cases. On August 28, 2012, Staff filed its report on the financial audit of the GCR mechanism for the period March 1, 2010,

through February 29, 2012. On August 30, 2012, Staff filed its report on the audit of the UEX mechanisms for the period January 2009 through December 2011.

The January 23, 2012, Commission entry scheduled the hearing in these matters for October 30, 2012. At the October 30, 2012, hearing, no members of the public appeared to testify. Counsel for Staff represented at the hearing that the parties had reached a stipulation and recommendation (stipulation), which had been filed on October 29, 2012, resolving all the issues in these matters (Tr. at 5; Joint Ex. 1). In the stipulation, Suburban agrees to all the recommendations set forth in the audit reports. Staff also offered as evidence the testimony of Roger Sarver in support of the stipulation (Tr. at 6).

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. At the hearing, Suburban submitted proof of publication stating that notices were provided in newspapers of general circulation on October 1, 2012, in the counties of Delaware, Marion, Henry, and Wood. Copies of the notices were attached to the proof of publication (Suburban Ex. 1). Thus, notice was properly provided in accordance with the rule.

#### AUDIT REPORTS:

##### I. GCR Financial Audit

Staff conducted a GCR financial audit, in accordance with the objectives outlined in Chapter 4901:1-14, O.A.C. In the audit, Staff examined the periodic filings of Suburban that support the GCR rates for the period from March 1, 2010, through February 29, 2012. Staff found that Suburban fairly determined, in all material respects, its GCR rates for the periods stated above, in accordance with the uniform purchased gas adjustment clause, as set forth in Chapter 4901:1-14, O.A.C, and related appendices, and properly applied the GCR rates to customer bills (Commission-ordered Ex. 1 at 18).

With regard to the issues identified in its audit, Staff found the following:

- (1) Suburban's GCR rates were fairly determined, in accordance with the provisions of Chapter 4901:1-14, O.A.C., during the audit period, except for those instances noted in the GCR audit report.

- (2) Suburban accurately determined and billed the GCR rates for the effective audit period, March 1, 2010, through February 29, 2012, in accordance with Chapter 4901:1-14, O.A.C., and related appendices, except for those instances noted in the GCR audit report.
- (3) Suburban's GCR rates were properly applied to customer bills during the audit period.
- (4) Suburban's level of unaccounted for gas for the GCR audit period was reasonable and within the requirements of Commission rules.
- (5) The expected gas cost (EGC) calculated by Staff did not equal the EGC billed by Suburban for the months of December 2010, January 2011, and February 2011.
- (6) The inclusions of reconciliation adjustments (RAs) in Suburban's balance adjustment (BA) calculations were out of sequence during the audit period. This had no effect on the BA during the audit period.
- (7) Two of four prior audit recommendations from audits conducted in 2008 and 2010 were not implemented by Suburban. First, Suburban did not conduct daily meter readings for Chase/Bank One. Second, Suburban did not implement over nominations (positive imbalances) to offset under nominations (negative imbalances) created by Chase/Bank One in the prior audit period.
- (8) Suburban has substantial amounts of unutilized capacity under contract which results in an average cost per customer of over three dollars per Mcf for demand charges alone.

(Commission-ordered Ex. 1 at 1, 6, 12, 15, 18, 22.)

## II. UEX Audit

Staff conducted a UEX audit of Suburban's UEX recovery mechanism for the period January 1, 2009, through December 31, 2011. Staff's audit of Suburban's UEX account determined that the Company appropriately applied the UEX rider rate with

the annual sales volumes to their recoveries-bad debt rider account. Staff determined that the recoveries-other account was correctly reported in the UEX applications. Staff confirmed that payments made to the outside collection agency are paid through Suburban's base rate, and the gross receipts tax was not billed through the UEX rider (Commission-ordered Ex. 2 at 5).

With regard to the issues identified in its audit, Staff found the following:

- (1) Suburban's UEX rider rates were accurately calculated and billed for the UEX audit period, except for those instances noted in the UEX audit report.
- (2) Suburban's UEX rider rates were properly applied to customer bills during the audit period.
- (3) Suburban's calculated 2011 ending balance of (\$124,522) is different from Staff's calculated 2011 Ending Balance of (\$124,512) by an amount of \$10.

(Commission-ordered Ex. 2 at 2, 5).

STIPULATION:

As stated previously, a stipulation, signed by all parties in these proceedings, was filed in the dockets on October 29, 2012. (Joint Ex. 1). The stipulation was intended by the signatory parties to resolve all outstanding issues in these proceedings. The following is a summary of the provisions agreed to by the parties and is not intended to replace or supersede the stipulation. The stipulation includes, *inter alia*, the following provisions:

- (1) Suburban will make a reconciliation adjustment in the amount of \$101 in the customers' favor to be applied in the first GCR filing following this Opinion and Order.
- (2) Suburban will match the inclusion of its RAs to the corresponding AAs in its quarterly reporting periods.
- (3) Suburban will use the positive imbalance created by Chase/Bank One to offset future purchases for sale customers.

- (4) Suburban will align its capacity entitlements as its contracts expire to a level commensurate with its peak design day levels.
- (5) Suburban will implement Staff's recommendations contained in the UEX audit report to set the beginning balance on its UEX account as (\$124,512).

(Joint Ex. 1.)

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 afforded substantial weight. *See Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (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, 561, 629 N.E.2d 423 (1994), citing *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 126, 592 N.E.2d 1370 (1992). 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 (*Consumers' Counsel* at 126).

At the October 30, 2012, public hearing, Roger Sarver, who supervises GCR audits for the Commission, testified that the stipulation resulted from arm's length bargaining between knowledgeable, capable parties and benefits the public. Mr. Sarver additionally testified that the stipulation does not violate any regulatory practice or principle (Tr. at 10). Based on our review of the three-pronged test, the Commission finds the first criterion, that the process involved serious bargaining by knowledgeable, capable parties, is met. All parties to the stipulation have been involved in numerous cases before the Commission and have consistently provided extensive and helpful information to the Commission. In addition, the stipulation also meets the second criterion. As a package, the stipulation advances the public interest by resolving all the issues raised in these matters without resulting in extensive litigation. Finally, the stipulation meets the third criterion because it does not violate any important regulatory principle or practice. Accordingly, the Commission finds that the stipulation is reasonable and should be adopted.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Suburban is a gas and natural gas company as defined in Sections 4905.03(A)(4) and (5), Revised Code, and, as such, is a public utility subject to the jurisdiction and supervision of the Commission.
- (2) Section 4905.302, Revised Code, together with Rule 4901:1-14-07, O.A.C., requires 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) On January 23, 2012, the Commission initiated these proceedings, established the audit periods, established the date upon which the audit reports must be filed, scheduled a hearing date of October 30, 2012, and directed Suburban to publish notice of the hearing.
- (4) On August 28, 2012, the GCR audit report was filed. On August 30, 2012, the UEX audit report was filed.

- (5) On October 29, 2012, a stipulation signed by all parties was filed.
- (6) Suburban published notice of the hearing within the period from 15 to 30 days prior to the date set for the hearing, in compliance with Commission requirements and Section 4905.302, Revised Code.
- (7) No public witnesses appeared to testify at the October 30, 2012, hearing. At the hearing, the stipulation was submitted, intending to resolve all the issues in these cases.
- (8) The stipulation meets the criteria used by the Commission to evaluate stipulations, is reasonable, and should be adopted.
- (9) Suburban accurately calculated its GCR rates for the period of March 1, 2010, through February 29, 2012, in accordance with the uniform purchased gas adjustment as set forth in Chapter 4901:1-14, O.A.C, and related appendices, except for those instances noted in the GCR audit report. Further, Suburban's gas costs, which were passed through Suburban's GCR clause for the audit period, were fair, just, and reasonable.
- (10) Suburban accurately calculated the UEX rider rates during the UEX audit period, except for those instances noted in the UEX audit report.
- (11) Suburban's UEX rider rates were properly applied to customer bills during the audit period.

ORDER:

It is, therefore,


ORDERED, That the stipulation of the parties be adopted and approved. It is, further,

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

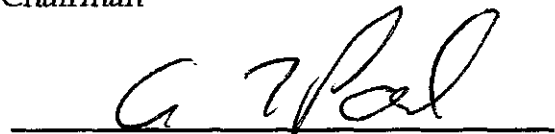


ORDERED, That a copy of this opinion and order be served upon each party of record.

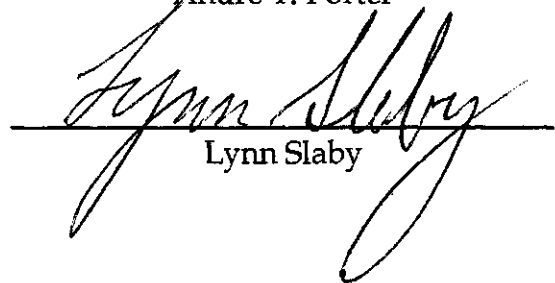
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

  
Steven D. Lesser

  
Andre T. Porter

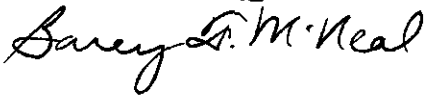
  
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Lynn Slaby

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Barcy F. McNeal

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Secretary