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 Ohio Cumberland Gas Company and Related Matters.	)))))	Case No. 14-211-GA-GCR

OPINION AND ORDER

The Commission, having considered the exhibits and the stipulation and recommendation presented by the parties and being otherwise fully advised, hereby issues its Opinion and Order.

APPEARANCES:

Mike DeWine, Ohio Attorney General, by Werner L. Margard, Assistant Attorney General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of the Staff of the Public Utilities Commission of Ohio.

OPINION:

I. BACKGROUND

Ohio Cumberland Gas Company (Cumberland or Company) is a natural gas company as defined by R.C. 4905.03 and a public utility as set forth in R.C. 4905.02. Cumberland is also a gas company within the meaning of R.C. 4905.302(C), pursuant to which this Commission promulgated rules for a uniform purchased gas adjustment clause to be included in the schedules of natural gas companies subject to the Commission's jurisdiction. These rules, which are contained in Ohio Adm.Code 4901:1-14, separate the jurisdictional cost of gas from all other costs incurred by a natural gas company and provide for each company's recovery of these costs.

R.C. 4905.302 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 the 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, Ohio Adm.Code 4901:1-14-07, requires that periodic audits of each gas or natural gas company be conducted. R.C. 4905.302(C) and Ohio Adm.Code 4901:1-14-08(A) require the Commission to hold a public hearing at least 60 days after the filing of an audit report, and Ohio Adm.Code 4901:1-14-08(C) specifies that notice of the hearing be provided at least 15 days and not more than 30 days prior to the date of the scheduled hearing.

By Entry issued on February 13, 2014, the Commission initiated this case and established the financial audit review period for this case as August 1, 2011, through July 31, 2013, and the date of hearing, as well as the due dates for various filings. The Commission also directed the Company to publish notice of the hearing. Staff filed its audit report on March 11, 2014 (Commission-Ordered, Ex. 1).

The public hearing was held on May 13, 2014, at the offices of the Commission. No public witnesses testified at the hearing. At the hearing, Staff submitted the stipulation and recommendation (stipulation), which was filed on May 12, 2014, and signed by Cumberland and Staff, which, if adopted, will resolve all of the issues in this case (Jt. Ex. 1). Also, the proofs of publication of notice of the hearing were admitted into the record at the hearing (Tr. 10-11; Company Ex. 1).

II. AUDIT REPORT

As part of its audit report, Staff submitted a certificate of accountability. By its certificate of accountability, Staff stated that it had completed the required audits of Cumberland's GCR rates for the period August 2011, through July 2013. Staff audited the GCR rates for conformity in all material respects with the procedural aspects of the uniform purchase gas adjustment as set forth in Ohio Adm.Code 4901:1-14 and related appendices, as well as the Commission Entry in this case. Staff noted that Cumberland has accurately calculated the GCR rates for the period specified in accordance with the uniform purchased gas adjustment as set forth in Ohio Adm.Code 4901:1-14 except for those instances noted in the audit report. (Commission-Ordered Ex. 1 at 1.)

A. General

Cumberland was founded in 1906 and was formerly known as the Upham Gas Company. Cumberland changed ownership in 1944. Afterward, it was purchased in 1980 by Ramser Industries, Inc., a closely-held Ohio corporation. Cumberland provides jurisdictional natural gas utility service to approximately 1,626 residential customers, 209 commercial customers, and 11 large commercial and industrial transportation customers. These 11 customers account for 81.2 percent of Cumberland's total system throughput. The remaining 18.8 percent is consumed by GCR customers. Cumberland provides service in portions of Ashland, Coshocton, Holmes, Knox, Licking, Morrow, and Richland counties. The Company relies upon the availability of locally produced gas to serve a portion of its customers' requirements. The local gas supplies are delivered to the system through local gathering and distribution lines. Cumberland receives the balance of its system requirements through its primary interstate pipeline, Columbia Gas Transmission Corporation (TCO). (Commission-Ordered Ex. 1 at 3.)

B. Expected Gas Cost

Staff reviewed Cumberland'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. Cumberland sells gas to domestic and small commercial customers pursuant to the company's tariff. Cumberland also transports gas to 11 transportation customers. A small amount of gas is transported by the Company, as an intermediate transporter, to Columbia Gas of Ohio, Inc. Staff has reviewed Cumberland's sales records and found no errors. In its review of purchase volumes, Staff, therefore, had no recommendations in this area. (Commission-Ordered Ex. 1 at 4.)

C. Actual Adjustment

The actual adjustment (AA) reconciles the monthly cost of purchased gas with the EGC billing rate. The AA 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 (Mcf) of gas sold for the month, which is sometimes referred to as the unit book cost of gas. The difference between the unit 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 AA rate to be included in the GCR for four quarters. Errors in the AA calculation can result from the use of incorrect purchase gas costs or sales volumes and/or the wrong EGC rate. (Commission-Ordered Ex. 1 at 5.)

Staff noted in its report a sequential error in the EGC/Mcf calculation beginning in September 2011 and continuing through the entire audit period. Additionally, Staff noted a computational error in the Company's reported AA for the last quarter of the audit period. The errors disclosed by Staff are not self-correcting through the GCR mechanism. Staff, therefore, recommended the Commission order a reconciliation adjustment (RA) of $(9,382)[1] in the customers' favor to correct the difference between Staff's and the Company's calculations. (Commission-Ordered Ex. 1 at 5.)

1 Throughout this Order, numbers in parenthesis indicate negative numbers.

D. Refund and Reconciliation Adjustment

The refund and reconciliation adjustment is used to pass through the jurisdictional portion of refunds received from gas suppliers and adjustments ordered by the Commission. Annual interest of 10 percent is applied to the net jurisdictional amount of the RA, which is then divided by 12 months of historic sales volumes to develop a volumetric rate to be included in the GCR calculation for four quarters. (Commission-Ordered Ex. 1 at 10.)

Staff reviewed the refund and reconciliation adjustment calculations contained in each GCR filing within the audit periods. Staff found the Company completed the RA of ($1,797) ordered by the Commission in *In re Ohio Cumberland Gas Company*, Case No. 12-211-GA-GCR. Staff also found that the Company's inclusion of the RA contained the appropriate amount of interest and was included in rates for 12 consecutive months. Staff, therefore, had no recommendations. (Commission-Ordered Ex. 1 at 10.)

E. Balance Adjustment

The balance adjustment (BA) mechanism corrects for under- or over-recoveries of previously calculated AAs and RAs. The BA is calculated by subtracting the product of each AA and RA, and the sales to which those rates were applied, from the dollar amounts of the respective AA or RA that was previously included in the GCR and used to generate those adjustment rates. Since those adjustment rates were derived by dividing the dollar amounts by historic sales, the BA calculation depicts the differences in revenues generated for each of these adjustment mechanisms using actual versus historical sales. The sum of the differences for the AA and RA calculations is the total BA, which is placed into the AA calculation. (Commission-Ordered Ex. 1 at 11.)

Errors detected in the BA generally are the result of incorrectly reported sales volumes, but also may be due to selecting an incorrect previous AA or RA rate for the purpose of calculating a given quarter's BA. Staff noted that an RA amount was not included in the Company's BA calculation, along with small differences in sales volumes. (Commission-Ordered Ex. 1 at 11.)

Staff noted that the differences between the Staff's and the Company's calculations are not self-correcting through the GCR mechanism. Staff, therefore, recommended the Commission order an RA of $146 in the Company's favor.

F. Customer Billing

Staff reviewed and verified the GCR and customer service base rate charges applied to customer bills during the audit period. To ascertain the accuracy of customer billing, Staff examined a random sampling of five customer bills for each month of the audit period. Staff verified that the bills were accurate in each monthly billing period. Staff found that Cumberland accurately billed its customers according to the GCR rates filed monthly with the Commission. Staff, therefore, had no recommendations. (Commission-Ordered Ex. 1 at 16.)

G. Management and Operations

Cumberland is a closely held Ohio corporation, with 4,000 outstanding shares. Mark R. Ramser owns 1,000 shares and Ramser FLP, Ltd. owns the remaining 3,000 shares. Mr. Ramser serves as Cumberland's president, chairman of the board, vice-president, secretary, and comptroller. The board of directors consists of two officers: Mr. Ramser and Ms. Mary E. Ramser. Ms. Denise M. Ramser serves as treasurer. The Company has 16 full-time employees. (Commission-Ordered Ex. 1 at 17.)

Staff stated that Cumberland's supply planning is relatively straightforward. The Company examines the GCR customer requirements for the same month during the prior year or two; then, it adjusts that figure to account for new customer hook-ups and weather effects. This figure is reduced by the amount of local production expected to hit Cumberland's system. What remains is the amount of volumes needed to be procured and delivered on the interstate system. This figure is provided to Cumberland's marketer/broker to plan and nominate for delivery the appropriate volumes for the coming month. Staff noted that winter supplies are met by firm transportation, nonrecallable released firm transportation, and storage capacity. (Commission-Ordered Ex. 1 at 17.)

Staff stated that Cumberland currently receives natural gas from a combination of interstate supplies and local production. The interstate supplies, delivered via Cumberland's interconnection with TCO, currently are priced at a monthly index. Local production is acquired from approximately 50 producers and Gatherco. For its total system requirements, approximately 61 percent of its needs are met by local production, four percent are met through Gatherco, with the remaining 35 percent met by interstate pipeline. Staff made no recommendations as to the Company's management and operations for the audit period. (Commission-Ordered Ex. at 17.)

III. STIPULATION

On May 12, 2014, the parties filed a stipulation that, if adopted, would resolve all of the issues in this proceeding. The following is a summary of the stipulation and does not supersede or replace the provisions of the stipulation:

(1) An RA of ($9,382) in the customer's favor should be included in the next GCR filing following Opinion and Order in this case to correct the differences identified in the AA.

(2) An RA of $146 in the Company's favor should be applied in the first GCR filing following the Opinion and Order in this case to correct for the differences identified in the BA.

(Jt. Ex. 1 at 4.)

IV. CONCLUSION

Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into stipulations. Although not binding on the Commission, the terms of such an agreement are accorded 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., In re Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT, Opinion and Order (Mar. 30, 1994); *In re Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al., Opinion and Order (Dec. 30, 1993); *In re Cleveland Elect. Illum. Co.*, Case No. 88-170-EL-AIR, Opinion and Order (Jan. 31, 1989); *In re Cincinnati Gas and Electric Company*, Case No. 84-1187-EL-UNC, Opinion and Order (Nov. 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:

(1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?

(2) Does the settlement, as a package, benefit ratepayers and the public interest?

(3) Does the settlement package violate any important regulatory principle or practice?

The Supreme Court of Ohio 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). Additionally, the Court stated 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.

Based on our three-pronged standard of review, we find the first criterion, that the process involved serious bargaining by knowledgeable, capable parties, is clearly met. Cumberland and Staff have been involved in previous cases before the Commission, including a number of GCR cases. Moreover, these parties have provided helpful information to the Commission in cases regarding fuel-related policies and practices. The settlement agreement also meets the second criterion. As a package, the stipulation advances the public interest by resolving the issues related to the review of Cumberland's GCR and fuel-related policies and practices during the audit periods. Finally, meeting the third criterion, the stipulation does not violate any important regulatory principle or practice. Staff witness James Ripke, Utility Specialist, testified that the stipulation satisfies all three prongs of the standard of review employed by the Commission in considering the stipulation. (Tr. 8-9). Upon review of the stipulation in this proceeding, the Commission concludes 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.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

(1) Cumberland is a natural gas company within the meaning of R.C. 4905.03, and, as such, is a public utility subject to the supervision and jurisdiction of this Commission.

(2) Pursuant to R.C. 4905.302 and Ohio Adm.Code 4901:1-14-08, this docket was initiated by the Commission's Entry of January 14, 2014, to review the company's GCR rates.

(3) An audit for the period August through July was performed by Staff in compliance with R.C. 4905.302 and Ohio Adm.Code 4901:1-14-07. Staff filed its audit report on March 14, 2014.

(4) Pursuant to R.C. 4905.302(C) and Ohio Adm.Code 4901:1-14-08(A), a public hearing was held on May 13, 2014. No public witnesses testified at the hearing.

(5) The Company published notice of the hearing in compliance with Ohio Adm.Code 4901:1-14-08(C).

(6) The parties submitted a stipulation in this docket intending to resolve all outstanding issues in this proceeding.

(7) The stipulation submitted by the parties in this case meets the criteria used by the Commission to evaluate stipulations, represents a just and reasonable resolution of the issues in this proceeding, and should be adopted.

(8) To the extent noted in the audit report, the Company's determination of its GCR rates for the audit period was in accordance with the financial and procedural aspects of Ohio Adm.Code 4901:1-14, and such rates were properly applied to customer bills. Accordingly, the gas costs passed through the Company's GCR clause 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 of the parties be adopted and approved. It is, further,

ORDERED, That Cumberland implement the recommendations that were agreed upon by the parties in the stipulation and noted in this Opinion and Order. It is, further,

ORDERED, That the next auditor review Cumberland's actions in carrying out the terms of the stipulation and this Opinion and Order. 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 all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Thomas W. Johnson, Chairman

Steven D. Lesser

Lynn Slaby

M. Beth Trombold

Asim Z. Haque

LDJ/vrm

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SEP 10 2014

Barcy F. McNeal

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Secretary