

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE JOINT APPLICATION  
OF SOUTHEASTERN NATURAL GAS COMPANY  
AND MADISON ENERGY COOPERATIVE  
ASSOCIATION, INC. TO SUBSTITUTE  
NATURAL GAS SERVICE AND TRANSFER  
ASSETS AND CUSTOMERS.

CASE NO. 15-1508-GA-ATR

## FINDING AND ORDER

Entered in the Journal on June 1, 2016

### I. SUMMARY

{¶ 1} This Finding and Order approves the joint application to authorize the transfer of assets and customers from Southeastern Natural Gas Company to Madison Energy Cooperative Association, Inc.

### II. FACTS AND PROCEDURAL BACKGROUND

{¶ 2} On August 26, 2015, Southeastern Natural Gas Company (Southeastern) and Madison Energy Cooperative Association, Inc. (MECA) (Joint Applicants) filed a joint application to authorize the transfer of assets and customers from Southeastern to MECA and to approve the substitution of natural gas service by MECA for Southeastern.

{¶ 3} On September 30, 2015, Staff filed a letter indicating that Southeastern sent letters to ten customers receiving service through a gathering line, advising them that their service would be disconnected and providing them with monetary payments of \$750 to assist with the conversion to an alternate fuel source.

{¶ 4} By Entry of October 7, 2015, the Commission directed Southeastern to maintain all of its public utility services and facilities until such time as the Commission authorized an abandonment and/or transfer of such assets and services.

{¶ 5} On October 14, 2015, Southeastern filed an application for rehearing of the Commission's October 7, 2015 Entry. On November 4, 2015, Southeastern's application for rehearing was denied.

{¶ 6} Thereafter, Staff confirmed that Southeastern mailed letters to all ten customers.

{¶ 7} On February 19, 2016, Southeastern filed a status report indicating that all but one check was cashed and that it is unable to ascertain the whereabouts of the customer associated with the final check.

{¶ 8} On May 6, 2016, Staff filed comments and recommendations regarding the joint application.

{¶ 9} On May 10, 2016, Southeastern filed a notice that it does not object to the Staff review and recommendations.

{¶ 10} No Southeastern customers filed any comments in response to the joint application or in response to the letters received regarding the transfer to MECA or the payments of \$750.

### III. DISCUSSION

#### *A. Applicable Law*

{¶ 11} Southeastern is a public utility under R.C. 4905.02, and a natural gas company as defined in R.C. 4905.03, and, as such, is subject to the jurisdiction of the Commission.

{¶ 12} MECA is a member-owned, not-for-profit cooperative operated exclusively for its members and is engaged in the business of supplying natural gas to its members.

{¶ 13} Pursuant to R.C. 4905.02 and 4905.04, the Commission does not have jurisdiction over MECA other than for gas pipeline safety purposes.

{¶ 14} R.C. 4905.05 provides that the jurisdiction, supervision, powers, and duties of the Commission extend to every public utility, the plant or property of which lies wholly within this state.

{¶ 15} R.C. 4905.06 provides that the Commission has general supervision over all public utilities within its jurisdiction as defined in R.C. 4905.05.

{¶ 16} R.C. 4905.20 provides that no public utility furnishing service or facilities within this state shall abandon or withdraw any main pipeline, gas line, or the service rendered thereby, except as provided in R.C. 4905.21.

{¶ 17} Pursuant to R.C. 4905.21, any public utility desiring to abandon or close all or any part of any line or service shall make application to the Commission.

#### ***B. Commission Review of Applicable Law***

{¶ 18} The Commission has previously found that such transactions where customers move from service by a regulated utility to service by a nonregulated entity are not tantamount to an abandonment of service or facilities and are not subject to Commission review under R.C. 4905.20 and 4905.21. *In re Northern Industrial Energy Development, Inc. and Knox Energy Cooperative Association, Inc.*, Case No. 05-1267-GA-ATR, Finding and Order (Dec. 14, 2005); *In re Columbia Gas of Ohio, Inc.*, Case No. 04-1417-GA-ATR, Finding and Order (Feb. 2, 2005).

{¶ 19} The Commission has found it appropriate to exercise its authority pursuant to R.C. 4905.05 and 4905.06 to ensure that the proposed transfer results in uninterrupted and adequate service to the utility's existing customers. *In re Ohio Edison Co.*, Case No. 99-955-EL-ATR, Finding and Order (Nov. 18, 1999).

{¶ 20} Accordingly, in order to protect the public interest, the Commission will exert jurisdiction to this extent over the transaction between Southeastern and MECA proposed in this case.

### *C. Joint Application*

{¶ 21} According to the joint application, Southeastern provides natural gas service to approximately 1,500 customers in Athens, Morgan, Perry, and Union counties and MECA provides natural gas service to approximately 700 members in Union county. Joint Applicants state that they have determined that it would be more efficient and would improve service to customers if MECA were to serve the 1,500 customers in Athens, Morgan, Perry, and Union counties now served by Southeastern. The primary change Southeastern customers would notice will be that the name of the natural gas service provider on their bill will be MECA instead of Southeastern. Telephone numbers and locations of offices will not change and MECA does not intend to change the current base rate for Southeastern customers.

{¶ 22} According to the joint application, upon the approval by the Commission, Southeastern will assign its assets and all of its residential and small commercial customers to MECA and all customers will be converted to MECA members at no cost. In addition, Southeastern will discontinue service to transferred residential and small commercial customers and should have its tariffs cancelled and be removed from the roles of public utilities. Joint Applicants believe that this is not an abandonment of service by Southeastern under R.C. 4905.20 and 4905.21 because the cessation of service by Southeastern is accompanied with uninterrupted and adequate service by MECA, which has the technical, financial, and managerial abilities to ensure the provision of uninterrupted and adequate service to the customers.

### *D. Staff Findings*

{¶ 23} Staff noted that, as a gas cooperative not within the jurisdiction of the Commission, MECA's customers would not be eligible for various regulatory consumer protections and assistance programs, including, but not limited to, Percentage of Income Payment Plan (PIPP), winter disconnection protections, complaint procedures and options, and minimum customer service levels and standards.

{¶ 24} However, Staff noted that MECA provides some mitigating programs and protections such as payment arrangements and Home Energy Assistance Program (HEAP). HEAP would offer an additional \$375 for emergency assistance and an additional \$181 for regular assistance to cooperative customers.

{¶ 25} Staff indicated that it is concerned with large PIPP arrearage balances following customers as past due balances subject to disconnection upon the transfer to MECA. Staff recommends that any PIPP arrearage of transferred customers not follow the customers as a debt but be absorbed by Southeastern through its over-collection of that amount found in the gas cost recovery (GCR) audit as described below. Staff also recommended that PIPP customers with a credit balance should have their credit follow the transfer to MECA.

{¶ 26} Staff explained that, in Case Nos. 15-215-GA-GCR and 15-415-GA-PIP, Staff completed audits of Southeastern's GCR mechanism and PIPP rider. As a result of the GCR audit, Staff and Southeastern have agreed that customers will receive an adjustment of \$193,340.

{¶ 27} In the PIPP audit, Staff found that Southeastern had a balance of \$6,585, as of December 31, 2014. Based on a Staff data request in the present case, Staff noted that the PIPP arrearages have grown to \$17,684.19, as of March 31, 2016.

{¶ 28} Staff has conducted a financial review of the transfer of assets and has found no reason to oppose the transaction. In addition, because customers will be afforded an opportunity to voice any concerns regarding consumer protection and quality of service by voting for a Trustee to represent their new membership, Staff found no reason to oppose the transfer of assets in the joint application.

*E. Staff Recommendations*

{¶ 29} Staff recommends that Southeastern determine the PIPP balance based on March 2016 billing, taking into consideration Staff's recommended PIPP balance of \$6,585, as of January 1, 2015.

{¶ 30} Staff recommends that the under-collected PIPP balance be netted against the over-collection GCR amount of \$193,340. This net amount would then be divided by the number of customers as of March 2016, and the result would be credited to each customer's bill prior to the Commission's granting of the transfer.

{¶ 31} According to Staff, upon the Commission's approval of the application and the consummation of the transaction, the assets and MECA's service to the customers will no longer be subject to the Commission's jurisdiction except for pipeline safety.

{¶ 32} Staff recommends that MECA notify all Southeastern customers of their rights and responsibilities as members of MECA.

#### IV. REVIEW AND DECISION

{¶ 33} The Commission has reviewed the joint application and finds that the proposed transaction between Southeastern and MECA is reasonable and in the public interest.

{¶ 34} The Commission is satisfied that MECA has the requisite financial and managerial abilities to ensure uninterrupted and adequate gas service to the former Southeastern customers. Therefore, the Commission finds that the joint application should be approved.

{¶ 35} As a cooperative, we do not assert general regulatory jurisdiction over MECA for other than gas pipeline safety regulation. We will, however, require that our approval be conditioned on Southeastern and MECA providing notification to all affected customers within 30 days of the issuance of this Finding and Order, explaining the transaction and the

terms under which service will be provided. A statement to that effect shall be filed in this docket within three days after the closing of the transactions.

{¶ 36} We find that Staff's recommendations regarding PIPP arrearages and balances for all affected Southeastern customers be addressed in the manner recommended by Staff.

{¶ 37} Accordingly, the joint application should be approved and take effect no sooner than the date Southeastern files a notice that all appropriate credits have been applied to its customers' bills. Also effective on that date, Southeastern shall be removed from the rolls of public utilities regulated by the Commission and its tariffs cancelled.

#### V. ORDER

{¶ 38} It is, therefore,

{¶ 39} ORDERED, That the joint application be approved and Southeastern be authorized to transfer to MECA all assets described in the joint application, in accordance with this Finding and Order. It is, further,

{¶ 40} ORDERED, That Staff's recommendations regarding PIPP arrearages and balances for all affected Southeastern customers be addressed in accordance with this Finding and Order. It is, further,

{¶ 41} ORDERED, That Southeastern and MECA notify the former Southeastern customers of the approval of the transaction within 30 days of the issuance of this Finding and Order, explaining the transaction and the terms under which service will be provided. The proposed notice shall be submitted to the Commission's Service Monitoring and Enforcement Department for prior review and approval. It is, further,

{¶ 42} ORDERED, That, upon completion of the transfer, Southeastern be removed from the roll of public utilities regulated by this Commission. It is, further,

{¶ 43} ORDERED, That Southeastern and MECA notify the Commission, by filing a letter in this docket, when the transfer has been consummated. It is, further,

{¶ 44} ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, or regulation. It is, further,

{¶ 45} ORDERED, That approval of the joint application does not constitute state action for the purposes of antitrust laws. It is not our intent to insulate Southeastern or MECA from the provision of any state or federal laws which prohibit the restraint of free trade. It is, further,

{¶ 46} ORDERED, That a copy of this Finding and Order be served upon all parties and interested persons of record.

**Commissioners Voting: Asim Z. Haque, Chairman; Lynn Slaby; M. Beth Trombold; Thomas W. Johnson.**

SEF/sc