THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REGULATION OF THE PURCHASED GAS ADJUSTMENT CLAUSES CONTAINED WITHIN THE RATE SCHEDULES OF OHIO CUMBERLAND GAS COMPANY AND RELATED MATTERS.	CASE NO. 16-211-GA-GCR

OPINION AND ORDER

Entered in the Journal on August 3, 2016

I. SUMMARY

{¶ 1} In this Opinion and Order, the Commission approves and adopts a Stipulation and Recommendation that resolves all issues relating to the gas cost recovery audit of Ohio Cumberland Gas Company for the period August 2013 through July 2015.

II. PROCEDURAL BACKGROUND

{¶ 2} Ohio Cumberland Gas Company (Cumberland or Company) is a natural gas company as defined by R.C. 4905.03 and a public utility under R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission. Cumberland is also a natural 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 gas or natural gas companies subject to the Commission's jurisdiction. These rules, which are contained in Ohio Adm.Code Chapter 4901:1-14, 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.

{¶ 3} 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 a 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 Ohio Adm.Code 4901:1-14-07, which identifies how periodic financial audits of gas or natural gas companies shall be conducted. Ohio Adm.Code 4901:1-14-08(A) requires the Commission to hold a public hearing at least 60 days after the filing of each required audit report. Ohio Adm.Code 4901:1-14-08(C) specifies that notice of the hearing be published in one of three ways, at least 15 days, but not more than 30 days, prior to the date of the scheduled hearing.

{¶ 4} On February 24, 2016, the Commission initiated this proceeding, established the financial audit period of August 2013 through July 2015, established the date upon which the financial audit report must be filed, and directed Staff to conduct the audit required under Ohio Adm.Code 4901:1-14-07. The Commission also scheduled a hearing for May 10, 2016, and directed the Company to publish notice.

{¶ 5} On March 11, 2016, Staff filed its GCR audit report for the designated audit period (Staff Ex. 1).

{¶ 6} On May 10, 2016, a public hearing was conducted at the offices of the Commission. No public witnesses appeared to offer testimony. Proofs of publication of notice of the hearing were filed on May 24, 2016 (Co. Ex. 1). At the hearing, Staff stated that the Company and Staff had reached an agreement that resulted in the Stipulation and Recommendation (Stipulation) filed on April 12, 2016, which, if adopted, will resolve all of the issues in this case (Jt. Ex. 1).

III. Discussion

A. General

{¶ 7} 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 audit of Cumberland's GCR rates for the period August 2013 through July 2015. Staff audited the GCR rates for conformity in all material respects with the procedural aspects of the uniform purchased gas adjustment as set forth in Ohio Adm.Code Chapter 4901:1-14 and related appendices, as well as the Commission's 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 Chapter 4901:1-14, except for the instances noted in the audit report. (Staff Ex. 1 at 1.)

{¶ 8} 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 1,737 residential customers, 245 commercial customers, and 12 transportation customers. Transportation customers account for 79 percent of Cumberland's total system throughput; the remaining 21 percent represents sales 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. This gas supply consists of purchases from approximately 50 local producers and Gatherco. These local gas supplies are delivered to the system through gathering lines. (Staff Ex. 1 at 3.)

{¶ 9} Cumberland receives the balance of its system requirements through an interstate pipeline, Columbia Gas Transmission Corporation (TCO). TCO provides transportation, storage, and balancing services to Cumberland through a general transportation service agreement. Cumberland also receives firm transportation capacity through its agreement with Atmos Energy Marketing. (Staff Ex. 1 at 3.)

B. Expected Gas Cost (EGC)

{¶ 10} Staff reviewed Cumberland's calculations of its 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 residential and small commercial customers pursuant to the Company's tariff. Cumberland also transports gas to 12 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 found that they were equal to sales volumes. Staff, therefore, had no EGC recommendations. (Staff Ex. 1 at 4.)

C. *Actual Adjustment (AA)*

{¶ 11} The 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 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 incorrectly reported purchased gas costs, errors in the stated sales volumes, and the use of the wrong EGC rate. (Staff Ex. 1 at 5.)

{¶ 12} Staff noted an error in the purchased gas costs for the month of October 2014, resulting in an increase in purchased gas costs of $6,100. This error is not self-correcting through the GCR mechanism. To correct the error, Staff recommends that the Commission order a reconciliation adjustment of $3,890 in the Company's favor. (Staff Ex. 1 at 5.)

D. *Refund and Reconciliation Adjustment (RA)*

{¶ 13} The RA 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. (Staff Ex. 1 at 10.)

{¶ 14} Staff reviewed the RA calculations contained in each GCR filing within the audit period. Staff found that the Company completed the reconciliation adjustment of ($9,236)[1] ordered by the Commission in *In re Ohio Cumberland Gas Co.*, Case No. 14-211-GA-GCR. Staff also found that the Company's inclusion of the reconciliation adjustment contained the appropriate amount of interest and was included in the rates for 12 consecutive months. Staff, therefore, had no recommendations. (Staff Ex. 1 at 10.)

E. Balance Adjustment (BA)

{¶ 15} The 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. 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 Ex. 1 at 11.)

{¶ 16} Staff noted that Cumberland omitted the RA amounts for *In re Ohio Cumberland Gas Co.*, Case Nos. 12-211-GA-GCR and 14-211-GA-GCR in its BA calculations. Staff included the RA for both cases in the first and the last quarter of its BA calculation. Staff also noted small differences in sales volumes that occurred in the prior audit. (Staff Ex. 1 at 11.)

{¶ 17} Staff stated that the differences between the Staff's and the Company's calculations are not self-correcting through the GCR mechanism. Staff, therefore,

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1 In this Opinion and Order, numbers in parentheses indicate negative numbers.

recommends that the Commission order a reconciliation adjustment of $1,327 in the Company's favor. (Staff Ex. 1 at 11.)

F. Customer Billing

{¶ 18} Staff analyzed customer bills to ensure that Cumberland applied the correct GCR rate to customer bills. For its investigation, Staff randomly selected customer bills to review both the GCR and the customer service base rate charges to confirm that each monthly billing period was accurate. Staff found that the Company accurately billed its customers in accordance with the GCR rates filed monthly with the Commission. Staff, therefore, had no recommendations. (Staff Ex. 1 at 16.)

G. Management and Operations

{¶ 19} Cumberland, a closely-held Ohio corporation, presently has 4,000 shares outstanding. Mr. 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. (Staff Ex. 1 at 17.)

{¶ 20} Staff stated that Cumberland's supply planning is relatively straightforward. The Company first examines historical usage by month to determine GCR customer requirements. Cumberland adjusts that figure to account for new customer hook-ups and weather effects. The resulting figure is reduced by the amount of local production expected to move through Cumberland's system. The remainder 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 for and nominate, for delivery, the appropriate volumes for the coming month. Winter supplies are met by firm transportation and non-recallable released firm transportation and storage capacity. (Staff Ex. 1 at 17.)

{¶ 21} 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. Of Cumberland's total system requirements, approximately 61 percent of its needs is met by local production, four percent is 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. (Staff Ex. 1 at 17.)

IV. STIPULATION OF THE PARTIES

{¶ 22} On April 12, 2016, Staff and Cumberland 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 Stipulation:

(1) A reconciliation adjustment of $3,890 in the Company's favor should be included in the next GCR filing following the Opinion and Order in this case to correct the differences identified in the AA.

(2) A reconciliation adjustment of $1,327 in the Company's favor should be applied in the first GCR filing following the Opinion and Order in this case to correct the differences in the BA.

(Jt. Ex. 1 at 4.)

V. CONCLUSION

{¶ 23} Ohio Adm.Code 4901-1-30 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. *Consumers' Counsel v. Pub. Util. Comm.*, 64

Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992), *citing 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.

{¶ 24} 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 & Elec. 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 Elec. Illum. Co.*, Case No. 88-170-EL-AIR, Opinion and Order (Jan. 30, 1989); *In re Restatement of Accounts and Records*, 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?

{¶ 25} 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, 629 N.E.2d 423 (1994), *citing Consumers' Counsel* 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.

{¶ 26} During the May 10, 2016 public hearing, Staff offered the testimony of Tornain Matthews to support the Stipulation. Mr. Matthews confirmed that the Stipulation presented in this case is the product of serious bargaining among capable, knowledgeable parties; that it benefits ratepayers and is in the public interest; and that it does not violate any important regulatory principle or practice. (Tr. at 7-8.)

{¶ 27} 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 clearly met for the Stipulation. The Company and Staff have been involved in many cases before the Commission, including a number of GCR cases. Moreover, Cumberland has consistently provided helpful information to the Commission in cases regarding GCR and fuel-related policies and practices and in other Commission proceedings. The Stipulation also meets the second criterion. As a package, the Stipulation advances the public interest by attempting to resolve all of the issues related to the review of the Company's GCR and fuel-related policies and practices during the audit period. Mr. Matthews testified that the Stipulation recognizes adjustments to Cumberland's GCR filings in regard to the AA and BA, which ensure that customers pay an accurate cost for the gas provided by the Company and that the Company recovers, on a dollar for dollar basis, the cost of gas that is purchased from suppliers on behalf of customers. The Stipulation also meets the third criterion because it does not violate any important regulatory principle or practice. (Tr. at 7-8.) Accordingly, we find that the Stipulation should be adopted and approved.

VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 28} 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.

{¶ 29} R.C. 4905.302, together with Ohio Adm.Code 4901:1-14-07, 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.

{¶ 30} On February 24, 2016, the Commission initiated this proceeding, established the financial audit period, established the date upon which the financial audit report must be filed, and directed Staff to conduct the audit required under Ohio Adm.Code 4901:1-14-07. The Commission scheduled a hearing for May 10, 2016, and directed the Company to publish notice of the hearing.

{¶ 31} On March 11, 2016, Staff filed its audit report for the audit period August 2013 through July 2015.

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

{¶ 33} On April 12, 2016, the parties filed a Stipulation intending to resolve all issues in this proceeding.

{¶ 34} At the May 10, 2016 hearing, the parties submitted the Stipulation that resolves all issues. The Stipulation is reasonable, meets the criteria used by the Commission to evaluate stipulations, and should be adopted.

{¶ 35} Except as noted in the audit report, the Stipulation, and this Order, the Company 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 Ohio Adm.Code Chapter 4901:1-14. Accordingly, the gas costs passed through the Company's GCR rates for the audit period were fair, just, and reasonable, except as noted in this decision.

VII. ORDER

{¶ 36} It is, therefore,

{¶ 37} ORDERED, That the Stipulation of the parties be approved and adopted. It is, further,

{¶ 38} 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,

{¶ 39} ORDERED, That the auditor selected to conduct Cumberland's next audit shall evaluate how the Company implements the agreements set forth in the Stipulation and the directives set forth in this Opinion and Order. It is, further,

{¶ 40} 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,

{¶ 41} ORDERED, That a copy of this Opinion and Order be served upon each party and interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Asim Z. Haque, Chairman

Lynn Slaby

M. Beth Trombold

Thomas W. Johnson

M. Howard Petricoff

LDJ/vrm

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Barcy F. McNeal
Secretary