

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE REGULATION OF
THE PURCHASED GAS ADJUSTMENT
CLAUSE CONTAINED WITHIN THE RATE
SCHEDULES OF SUBURBAN NATURAL
GAS COMPANY AND RELATED MATTERS.**

CASE No. 18-216-GA-GCR

**IN THE MATTER OF THE UNCOLLECTIBLE
EXPENSE RIDER OF SUBURBAN NATURAL
GAS COMPANY AND RELATED MATTERS.**

CASE No. 18-316-GA-UEX

**IN THE MATTER OF THE PERCENTAGE OF
INCOME PAYMENT PLAN RIDER OF
SUBURBAN NATURAL GAS COMPANY
AND RELATED MATTERS.**

CASE No. 18-416-GA-PIP

OPINION AND ORDER

Entered in the Journal on January 16, 2019

I. SUMMARY

{¶ 1} The Commission approves and adopts a stipulation and recommendation that resolves all issues relating to the gas cost recovery, uncollectible expense, and percentage of income payment plan audits of Suburban Natural Gas Company.

II. PROCEDURAL BACKGROUND

{¶ 2} Suburban Natural Gas Company (Suburban or Company) is a natural gas company as defined in R.C. 4905.03 and a public utility under R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission. Suburban 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 January 24, 2018, the Commission initiated Case No. 18-216-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 September 1, 2015, to August 31, 2017. By this same Entry, the Commission scheduled a hearing date of October 2, 2018, and directed Suburban to publish notice of the hearing.

{¶ 5} On March 19, 2008, the Commission authorized Suburban to establish an uncollectible expense (UEX) rider. *In re Suburban Natural Gas Co.*, Case No. 07-689-GA-AIR, Opinion and Order (Mar. 19, 2008). In approving the UEX rider, the Commission required that the rider be audited. On January 24, 2018, the Commission issued an Entry initiating Case No. 18-316-GA-UEX for the purpose of the audit of Suburban's UEX rider, the filing of the UEX audit report, and other related matters.

{¶ 6} The Commission has also authorized utility companies to recover percentage of income payment plan (PIPP) arrearages associated with providing natural gas service through their PIPP riders. *In re Establishment of Recovery Method for Percentage of Income Payment Plan*, Case No. 87-244-GE-UNC, Finding and Order (Aug. 4, 1987). On January 24,

2018, the Commission issued an Entry initiating Case No. 18-416-GA-PIP for the purpose of the audit of Suburban's PIPP rider.

{¶ 7} On August 3, 2018, Staff moved to extend the time for filing the GCR, UEX, and PIPP audit reports and to continue the hearing to a date not earlier than October 16, 2018. Staff explained that the Company provided conflicting information that Staff was unable to reconcile in time to complete the audit reports. Staff, therefore, requested additional time. By Entry issued August 20, 2018, the attorney examiner granted the motion and scheduled the hearing for October 16, 2018.

{¶ 8} On August 17, 2018, Staff filed its audit reports in the captioned cases for the designated audit periods. The audit reports include the financial audit report for Suburban's GCR mechanism (Commission-Ordered Ex. 1), the audit report for Suburban's UEX mechanism (Commission-Ordered Ex. 2), and the audit report for Suburban's PIPP mechanism (Commission-Ordered Ex. 3). The GCR audit was for the period September 1, 2015, through August 31, 2017. The UEX and PIPP audits were for the period January 1, 2016, through December 31, 2017.

{¶ 9} On October 16, 2018, the public hearing was conducted at the offices of the Commission. No members of the public appeared to testify (Tr. at 5). Counsel for Staff represented at the hearing that the parties had reached a stipulation and recommendation (Stipulation) that would resolve all issues in these proceedings (Tr. at 5).

{¶ 10} Suburban and Staff filed the Stipulation on October 10, 2018. Except as noted in the Stipulation, Suburban agrees to the recommendations set forth in the audit reports (Jt. Ex. 1 at 3). Staff also offered as evidence the testimony of Tornain Matthews in support of the Stipulation (Tr. at 6-10).

{¶ 11} Ohio Adm.Code 4901:1-14-08(C) specifies that notice of the hearing be published in a newspaper of general circulation throughout the company's service area or

by bill insert, bill message, or direct mail to customers. At the hearing, Suburban submitted proofs of publication (Suburban Ex. 1).

III. DISCUSSION

A. *GCR Audit*

{¶ 12} Staff conducted a GCR financial audit in accordance with the objectives outlined in Ohio Adm.Code Chapter 4901:1-14. In the audit, Staff examined the periodic filings of Suburban that support the GCR rates for the period from September 1, 2015, through August 31, 2017. Except as noted below, Staff found that Suburban accurately calculated its GCR rates for the period under investigation, in accordance with Ohio Adm.Code Chapter 4901:1-14 and related appendices. (Commission-Ordered Ex. 1 at 1.)

{¶ 13} With regard to the issues addressed in its audit, Staff reviewed Suburban's calculations 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. Following its review, Staff had no recommendations in this area. (Commission-Ordered Ex. 1 at 4.)

{¶ 14} The actual adjustment (AA) reconciles the monthly cost of purchased gas with the EGC billing rate. With respect to its review of the AA, Staff noted that Suburban is authorized to recover costs associated with the Del-Mar Pipeline lease agreement through its GCR mechanism. Staff's review of the Del-Mar Pipeline lease payments disclosed differences in purchased gas costs reached by Staff and the Company. Staff determined the differences relate to Suburban failing to account for lease payment increases in January 2016 and January 2017. Suburban did not receive invoices with the new payment amounts until April 2016 and April 2017. Suburban continued to pay the previously billed amount for the period January to April 2016 and January to April 2017, when the Company received the updated payment amount. Suburban made account adjustments in May of 2016 and 2017. Taking into account the entire audit period, the differences had no effect on the ending balances. (Commission-Ordered Ex. 1 at 5.)

{¶ 15} In addition to lease payments, Staff noted a discrepancy concerning consulting fees. Staff removed \$6,894 from the GCR calculation for a consulting fee related to training. Staff pointed out that consulting fees should not be recovered through the GCR mechanism but instead should be collected through base rates. Additionally, Staff noted that, in Case No. 15-1265-PL-AEC, Suburban and North Coast Gas Transmission Company LLC (North Coast) were authorized to terminate their natural gas transportation agreement and Suburban was allowed to recover through its GCR rate the amortized termination fee and interest charges it incurred. Staff's recalculation of the fees and interest that were recovered through the GCR disclosed a discrepancy that resulted in an over-collection of (\$10,211). The combined adjustments result in a decrease in purchased gas costs of (\$17,105) over the entire audit period. Because the differences between the AA calculated by Staff and the Company are not self-correcting, Staff recommends that the Commission order a reconciliation adjustment of (\$17,105) for an over-collection. (Commission-Ordered Ex. 1 at 5-6.)

{¶ 16} Staff had no recommendations for the refund and reconciliation adjustment (RA), which is used to pass through the jurisdictional portion of refunds received from gas suppliers and adjustments ordered by the Commission. Staff noted one refund adjustment that occurred during the audit period September 2015 through August 2017. That adjustment went into rates in December 2016. Only nine of 12 months of the refund were passed back to customers. Staff stated that it will verify in the next GCR audit that the remaining three months of the refund are passed back to customers. Staff also noted that it verified that the RA of \$19,590 for Case No. 14-216-GA-GCR has been completely implemented in rates. Finally, Staff stated that it will verify the implementation of the RA of (\$38) for Case No. 16-216-GA-GCR in Suburban's next GCR audit. (Commission-Ordered Ex. 1 at 11.)

{¶ 17} Staff found no errors in the Company's calculations for its balance adjustment, which corrects for under- or over-recoveries of previously calculated AAs and RAs. Staff also reviewed Suburban's unaccounted-for gas (UFG), which is the difference between gas

purchases and gas sales, and found that the Company's UFG was well under the acceptable range of five percent. With respect to customer billing, Staff noted that it found no errors in the inclusion of GCR rates in customers' bills. Consequently, Staff had no recommendations in these areas. In its review of management and operations, Staff, in the two previous audits, had concerns that Suburban had excessive capacity, taking into account the average usage of its customers. Staff's current audit revealed that Suburban's overall customer count has increased by 1,794 customers. With the termination of the North Coast contract and the increasing customer count, Staff is less concerned about Suburban's capacity. Nevertheless, Staff intends to monitor Suburban's capacity in future audits. (Commission-Ordered Ex. 1 at 12-15.)

B. UEX Audit

{¶ 18} Staff conducted an audit of Suburban's UEX rider for the period January 1, 2016, through December 31, 2017, as part of Suburban's GCR audit. Through its audit, Staff confirmed that Suburban accurately applied the UEX rider rates and sales volumes for 2016 and 2017 and verified that the Company's December 2017 ending balance was correct. Staff also confirmed that the number of accounts and amounts written off were accurate and that monies subsequently collected by the outside collection agency or the Company were properly credited to customers' arrearages. Staff had no recommendations with respect to Suburban's UEX rider. (Commission-Ordered Ex. 2 at 4.)

C. PIPP Audit

{¶ 19} Staff conducted an audit of Suburban's PIPP rider for the period January 1, 2016, through December 31, 2017. Staff concluded that Suburban properly accounted for charge-offs and recoveries for 2016 and 2017. Staff also found that the Company complied with Ohio Adm.Code Chapter 4901:1-18 for Post PIPP, Graduate PIPP, and credit account balances. Staff had no recommendations for Suburban's 2016 and 2017 PIPP audit. (Commission-Ordered Ex. 3 at 4-5.)

IV. STIPULATION OF THE PARTIES

{¶ 20} On October 10, 2018, Staff and Suburban filed a Stipulation that, if adopted, would resolve all of the issues in these proceedings. The following is a summary of the Stipulation and does not supersede or replace the Stipulation.

{¶ 21} Suburban's GCR rates were fairly determined in accordance with the provisions of Ohio Adm.Code Chapter 4901:1-14 during the audit period, except for those instances noted in the conclusions of the GCR audit report or as otherwise agreed in the Stipulation (Jt. Ex. 1 at 3).

{¶ 22} Suburban accurately determined and billed the GCR rates for the period September 1, 2015, through August 31, 2017, in accordance with Ohio Adm.Code Chapter 4901:1-14 and related appendices, except for those instances noted in the conclusions of the GCR audit report or as otherwise agreed in the Stipulation (Jt. Ex. 1 at 3).

{¶ 23} Suburban's GCR rates were properly applied to customer bills during the audit period (Jt. Ex. 1 at 3).

{¶ 24} Suburban agrees to implement Staff's recommendations contained in the GCR audit report, except as otherwise agreed in the Stipulation. Specifically, Suburban will make a reconciliation adjustment in the amount of (\$17,105) in the customers' favor in connection with the AA. This adjustment will be applied in the first GCR filing following the Opinion and Order in these cases. (Jt. Ex. 1 at 3.)

{¶ 25} Suburban's level of UFG for the audit period under review is reasonable and well within the requirements of the Commission rules (Jt. Ex. 1 at 4).

{¶ 26} The Commission should adopt the conclusions and recommendations contained in the GCR audit report, except as otherwise modified by the Stipulation (Jt. Ex. 1 at 4).

{¶ 27} For the UEX audit, the parties agree that Suburban's UEX rider rates were accurately calculated and billed for the effective audit period, January 1, 2016, through December 31, 2017. The parties further agree that Suburban's UEX rider rates were properly applied to customer bills during the audit period. (Jt. Ex. 1 at 4-5.)

{¶ 28} The Commission should adopt the findings and recommendations contained in the UEX audit report (Jt. Ex. 1 at 5).

{¶ 29} Concerning Suburban's PIPP audit, the parties agree that Suburban properly accounted for charge-offs and recoveries for 2016 and 2017. The parties also agree that Suburban properly implemented the Ohio Administrative Code rules and the changes to those rules. (Jt. Ex. 1 at 6.)

{¶ 30} The Commission should adopt the findings and recommendations contained in the PIPP audit report (Jt. Ex. 1 at 6).

V. CONCLUSION

{¶ 31} 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.

{¶ 32} 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 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?

{¶ 33} 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.

{¶ 34} During the October 16, 2018 public hearing, Staff introduced the Stipulation as Joint Exhibit 1. In addition, Staff offered the testimony of Tornain Matthews to support the Stipulation. Mr. Matthews confirmed that the Stipulation presented in these cases 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 9-10.)

{¶ 35} 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. Suburban and Staff have been involved in many cases before the Commission, including a number of GCR, UEX, and PIPP cases. Moreover, these parties have consistently provided helpful information to the Commission in cases regarding GCR

and fuel-related policies and practices, as well as UEX and PIPP cases and 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 Suburban's GCR and fuel-related policies and practices, as well as UEX and PIPP issues, during the audit period. Mr. Matthews testified that, except for the recommendations contained in the Stipulation, the audits determined that Suburban accurately calculated its GCR, UEX, and PIPP rates and applied those rates to customer bills. Moreover, the Stipulation meets the third criterion because it does not violate any important regulatory principle or practice. (Tr. at 9-10.) Accordingly, we find that the Stipulation should be adopted and approved.

VI. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 36} Suburban 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.

{¶ 37} 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.

{¶ 38} On January 24, 2018, the Commission initiated these proceedings; established the financial, UEX, and PIPP audit periods; established the date upon which the financial, UEX, and PIPP audit reports must be filed; and directed Staff to conduct the financial, UEX, and PIPP audits. The Commission scheduled a hearing for October 2, 2018.

{¶ 39} On August 17, 2018, Staff filed its GCR, UEX, and PIPP audit reports.

{¶ 40} By Entry issued August 20, 2018, the hearing was rescheduled for October 16, 2018.

{¶ 41} On October 10, 2018, the parties filed a Stipulation resolving all issues in these proceedings.

{¶ 42} At the October 16, 2018 hearing, the parties submitted a Stipulation that resolves all GCR, UEX, and PIPP issues. The Stipulation is reasonable, meets the criteria used by the Commission to evaluate stipulations, and should be adopted.

{¶ 43} Except as noted in the financial audit report, the Stipulation, and this Opinion and Order, Suburban accurately determined its GCR rate for the audit period and applied the GCR rate 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 Suburban's GCR rate for the audit period were fair, just, and reasonable, except as noted in this decision.

{¶ 44} Suburban accurately calculated its UEX rider rate during the audit period.

{¶ 45} Suburban accurately calculated its PIPP rider rate for the audit period.

VII. ORDER

{¶ 46} It is, therefore,

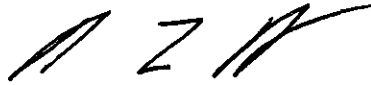
{¶ 47} ORDERED, That the Stipulation of the parties be approved and adopted. It is, further,

{¶ 48} ORDERED, That the auditor that conducts the Company's next audits shall evaluate how the Company implemented the agreements set forth in the Stipulation and the directives set forth in this Opinion and Order. It is, further,

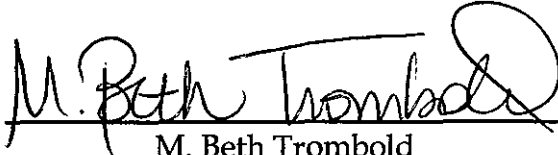
{¶ 49} ORDERED, That nothing in this Opinion and Order shall be binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 50} 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



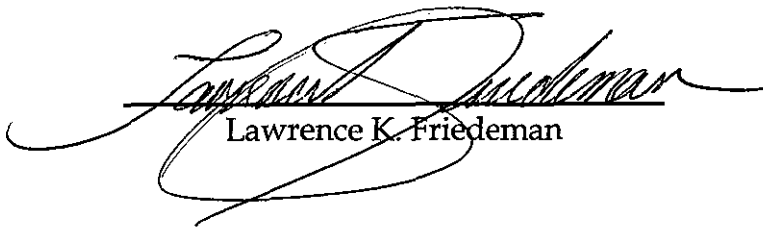
Asim Z. Haque, Chairman



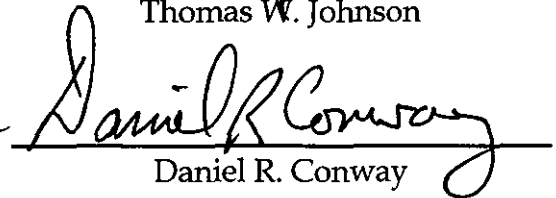
M. Beth Trombold



Thomas W. Johnson



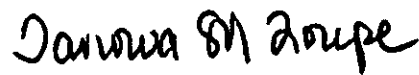
Lawrence K. Friedeman



Daniel R. Conway

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Tanowa M. Troupe
Secretary