

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio     )  
Gas Company for a Waiver of Orders     ) Case No. 18-1903-GA-WVR  
Related to the Tax Cuts and Jobs Act     )  
of 2017.     )

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**STIPULATION AND RECOMMENDATION**

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**APRIL 25, 2019**

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**I. BACKGROUND**

A. Rule 4901-1-30, Ohio Administrative Code (“OAC”), provides that any two or more parties to a proceeding may enter into a written or oral stipulation concerning the issues presented in such proceeding. Pursuant to Rule 4901-1-10 (C), OAC, the Staff of the Public Utilities Commission of Ohio (“Commission Staff”) is considered a party for the purpose of entering into a stipulation under Rule 4901-1-30 OAC.

B. The purpose of this document is to set forth the understanding of the Signatory Parties (as defined below), to resolve all issues raised in this proceeding, and to resolve the directives issued by the Public Utilities Commission of Ohio (“Commission”) in Case No. 18-47-AU-COI (“*Tax Investigation Case*”). The tax cut benefits for base rates were addressed in the rate case (Case No. 17-1139-GA-AIR) and are currently being passed back to consumers. However, as is explained in more detail below, one aspect of the tax cut benefit attributable to the excess deferred income tax (“EDIT”) is an adjustment that would be beneficial for consumers in the early years (years 1-11), but an increased charge to consumers in the latter years (years 12- 27). Any further changes to implement the effects of the TCJA in rates, beyond what was implemented through the

Stipulation in the *Rate Case*, would result in an overall revenue increase to customers; and therefore, the parties have agreed to not implement further the rate changes necessary to further modify the EDIT.

## **II. PARTIES**

A. This Stipulation and Recommendation (“Stipulation”) is entered into by and among Ohio Gas Company (“Company”), Commission Staff, and the Office of the Ohio Consumers’ Counsel (“OCC”) (collectively, “Signatory Parties”).

## **III. GENERAL MATTERS**

A. It is understood by the Signatory Parties that this Stipulation is not binding upon the Commission. However, the agreement contained herein is supported by information provided herewith, or referenced herein, is based upon the Signatory Parties’ desire to arrive at a reasoned and reasonable result considering the law, facts, and circumstances and, accordingly, should be given careful consideration by the Commission.

B. This Stipulation is submitted for purposes stated in paragraph I.B above and should not be understood to necessarily reflect the positions which the Signatory Parties would have taken if all the issues in the proceedings would have been litigated. Like most stipulations and recommendations reviewed by the Commission, the willingness of the Signatory Parties to jointly sponsor this document is predicated on the reasonableness of the Stipulation taken as a whole. The fact that this document is being offered by the Signatory Parties should not be construed as necessarily indicating agreement on theory or concepts.

C. The Signatory Parties believe that this Stipulation represents a reasonable compromise of varying interests. This Stipulation is expressly conditioned upon adoption in its entirety by the Commission without material modification. Each party has a right in its sole discretion to determine whether the Commission's approval of this Stipulation constitutes a "material modification" thereof. Should the Commission reject or materially modify all or any part of this Stipulation, the Signatory Parties shall have the right, within thirty (30) days of issuance of the Commission's order, to file an application for rehearing or to withdraw from the Stipulation by filing a notice with the Commission in this proceeding and serving all the Parties. The Parties agree that they will not oppose or argue against any other Signatory Party's application for rehearing that seeks to uphold the original unmodified Stipulation. Upon the Commission's issuance of any entry on rehearing that does not adopt the Stipulation without material modification, any party may withdraw from the Stipulation by filing a notice with the Commission within thirty (30) days of the Commission's entry on rehearing. Upon notice of withdrawal by any party, pursuant to the above provisions, the Stipulation shall immediately become null and void. In such event, this proceeding shall go forward at the procedural point at which this Stipulation was filed.

D. Except for enforcement purposes, neither this Stipulation nor the information and data contained herein, nor the Commission Order approving the Stipulation shall be cited as precedent in any future proceedings for or against any Signatory Party, or the Commission itself.

E. The Signatory Parties request that the Commission approve this Stipulation without further hearing. In support of the request to waive hearing and in support of this

Stipulation, the Signatory Parties stipulate to the following statements of fact that shall be controlling for this proceeding and any enforcement of the Stipulation in this or any future proceeding:

1. On January 10, 2018, the Commission issued an Entry in the *Tax Investigation Case* that directed rate regulated utilities to record on their books a deferred liability for the estimated reduction in federal income tax expense resulting from the Tax Cuts and Jobs Act of 2017 (“TCJA”).

2. On October 24, 2018, the Commission issued a Finding and Order in the *Tax Investigation Case* that further ordered rate regulated utilities, with some exceptions, to file applications not for an increase “to pass along to consumers the tax savings resulting from the TCJA.” In that Finding and Order, the Commission also stated that “the Commission is open to any alternative proposals by utilities, provided such proposals pass all tax savings on to customers, have the full agreement of Staff and provide for input from other interested stakeholders.”

3. The Company previously agreed to reduce its revenue requirement in its base distribution rate case, Case Nos. 17-1139-GA-AIR, *et al.* (“*Rate Case*”), to incorporate the effect of a reduction in the federal income tax rate under the TCJA. In the stipulation in the *Rate Case*, the Company also agreed that it would not implement an increase in rates for any unaddressed changes resulting from the TCJA. The Commission approved the stipulation from the *Rate Case* without modification.

4. The Company filed an application in this matter on December 27, 2018 in response to the Commission’s decisions from the *Tax Investigation Case*.

5. The Company collected revenue based on rates that included tax expense set at the prior tax rate from January to March 2018 (“2018 Tax Savings”) of \$463,257.

6. Unlike many utilities, which, as a result of the TCJA, owe a credit to customers for EDIT, the Company has Non-Normalized EDIT of (\$478,722), which would result in a rate increase of \$478,722.

7. Offsetting the 2018 Tax Savings against the Non-Normalized EDIT would result in an increase in the revenue requirement (*i.e.*, a benefit for the Company) for the first year.

8. The Company has Normalized EDIT of \$2,630,467.

9. Amortization of the Normalized EDIT in accordance with federal income tax law requirements would result in a decrease in the revenue requirement (*i.e.*, a benefit for consumers) approved in the Rate Case for approximately the first eleven years of the amortization period (2019 through 2029), but would result in an increase in the revenue requirement (*i.e.*, benefit for Company) for the remaining 16 years (2030 through 2045). Over the entire 27-year amortization period, there would be a revenue increase of approximately \$983,712, as set out in Schedule D of the Application.

10. Thus, any further changes to implement the effects of the TCJA in rates, beyond what was implemented through the Stipulation in the *Rate Case*, would result in a revenue increase.

#### IV. TERMS AND CONDITIONS

The Signatory Parties agree and stipulate as follows:

A. Based on the foregoing stipulation of facts, the Signatory Parties recommend the Commission approve a waiver of the requirement from the October 14, 2018 Finding and Order in the *Tax Investigation Case* that the Company file an application to address the remaining effects of the TCJA on the Company as such an application would result in an increase in rates contrary to the requirement in that Finding and Order and the Stipulation in the *Rate Case*.

B. The Signatory Parties agree and recommend that customers shall be protected such that the Normalized EDIT resulting from the TCJA including the subsequent amortization thereof, shall not be used as the basis to increase the revenue requirement calculation in this proceeding or any future proceeding under R.C. 4909.15, R.C. 4909.18, R.C. 4905.26, or under any provision of Chapter 4929 of the Ohio Revised Code, or any successor to the foregoing statutory provisions. Exhibit 1 provides examples of the Signatory Parties' understanding of the operation of this paragraph in any future rate case.

C. For purposes of the next base rate case, Company will maintain records of the actual annual amortization and accumulated amortization of the balance of the Normalized EDIT of \$2,630,467 indicated in Section III, E.8 of the stipulation.

## **V. CONCLUSION**

The undersigned hereby stipulate and agree that it is authorized to enter into this Stipulation on this 25<sup>th</sup> day of April 2019.

### **OHIO GAS COMPANY**

By: /s/ Frank P. Darr  
Frank P. Darr

### **STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO**

By: /s/ Jodi Bair (per approval)  
Jodi Bair, Assistant Attorney General

### **THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

By: /s/ Christopher Healey  
Christopher Healey, Assistant Consumers'  
Counsel



## Exhibit 1

EXAMPLES OF HYPOTHETICAL RATE IMPACTS IN FUTURE RATE CASE									
Source: Application Schedule D									
<u>Assume Rate Case - use Year 15 amounts</u>							Rev. Req.		
<u>Assume revenue requirement increases</u>							<u>Impact</u>		
<u>Rate Base Impact:</u>									
Beg. Balance normalized EDIT				\$2,630,467					
Accum. Amortization thru Yr. 15				\$1,550,660	rate base add.				
Unamort. Balance				\$1,079,807					
Assumed grossed up ROR				11.96%					
Rate base rev. requirement impact				\$185,459		\$185,459			
<u>Amortization Impact:</u>									
Continued amortization of EDIT				\$101,536					
Gross up to revenue level				\$134,936		(\$134,936)			
Net rev. req. impact						\$50,523	Company foregoes this increase (excludes from rev. req.)		
<u>Assume Rate Case - use Year 5 amounts</u>							Rev. Req.		
<u>Assume revenue requirement decreases</u>							<u>Impact</u>		
<u>Rate Base Impact:</u>									
Beg. Balance normalized EDIT				\$2,630,467					
Accum. Amortization thru Yr. 5				\$523,463	rate base add.				
Unamort. Balance				\$2,107,004					
Assumed grossed up ROR				11.96%					
Rate base rev. requirement impact				\$62,606		\$62,606			
<u>Amortization Impact:</u>									
Continued amortization of EDIT				\$104,166					
Gross up to revenue level				\$138,432		(\$138,432)			
Net rev. req. impact						(\$75,826)	Customers get this rate decrease in rev. requirements		

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

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**in**

**Case No(s). 18-1903-GA-WVR**

Summary: Stipulation Stipulation and Recommendation electronically filed by Mr. Frank P Darr  
on behalf of Ohio Gas Company