THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REGULATION OF THE PURCHASED GAS ADJUSTMENT CLAUSE CONTAINED WITHIN THE RATE SCHEDULES OF DUKE ENERGY OHIO, INC.	**CASE NO. 19-218-GA-GCR**
IN THE MATTER OF THE UNCOLLECTIBLE EXPENSE RIDER OF DUKE ENERGY OHIO, INC.	**CASE NO. 19-318-GA-UEX**
IN THE MATTER OF THE PERCENTAGE OF INCOME PAYMENT PLAN RIDER OF DUKE ENERGY OHIO, INC.	**CASE NO. 19-418-GA-PIP**

OPINION AND ORDER

Entered in the Journal on June 16, 2021

I. SUMMARY

{¶ 1} The Commission adopts the stipulation and recommendation filed by the parties on June 8, 2020, resolving all issues relating to the gas cost recovery, uncollectible expense, and percentage of income payment plan audits of Duke Energy Ohio, Inc.

II. PROCEDURAL BACKGROUND

{¶ 2} Duke Energy Ohio, Inc. (Duke 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.

{¶ 3} Pursuant to R.C. 4905.302, the 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.

{¶ 4} 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 effects 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.

{¶ 5} On December 21, 2005, the Commission authorized Duke to establish an uncollectible expense (UEX) rider. *In re The Cincinnati Gas & Elec. Co.*, Case No. 05-732-EL-MER, et al., Finding and Order (Dec. 21, 2005). In accordance with the Commission's previous directives, Duke's independent financial auditor reviews the UEX rider in conjunction with the Company's GCR audit. *In re Duke Energy Ohio, Inc.*, Case No. 10-726-GA-UEX, Finding and Order (June 23, 2010).

{¶ 6} The Commission has also authorized Duke to recover percentage of income payment plan (PIPP) arrearages associated with providing natural gas service through its PIPP rider. *In re Review of PIP Plan Riders*, Case No. 88-1115-GE-PIP, et al., Finding and Order (Dec. 2, 1993).

{¶ 7} By Entry dated February 20, 2019, the Commission initiated the financial audits of Duke's GCR mechanism and its UEX and PIPP riders. The Commission also established a deadline of November 15, 2019, for the audit reports, scheduled a hearing for January 14, 2020, and directed Duke to publish notice of the hearing.

{¶ 8} On October 11, 2019, the financial audit report (Staff Ex. 1) of Duke's GCR mechanism for the 12-month period ended August 28, 2019, was filed in Case No. 19-218-GA-GCR. On that same date, the UEX audit report (Staff Ex. 2) and the PIPP audit report (Staff Ex. 3) for the period of April 1, 2018, through March 31, 2019, were filed in Case No. 19-318-GA-UEX and Case No. 19-418-GA-PIP, respectively.

{¶ 9} By Entry dated December 24, 2019, the attorney examiner granted a motion for continuance of the procedural schedule. The attorney examiner also directed that the hearing be called on January 14, 2020, as scheduled, and continued to a date to be set by future entry.

{¶ 10} On January 9, 2020, Duke filed, consistent with Ohio Adm.Code 4901:1-14-08(C), affidavits stating that notice of the hearing was published in newspapers of general circulation in the Company's service territory (Duke Ex. 2).

{¶ 11} The hearing was called, as scheduled, for public comment on January 14, 2020. No members of the general public were present.

{¶ 12} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19.

{¶ 13} On June 8, 2020, Duke and Staff filed a joint stipulation and recommendation (Stipulation) for the Commission's consideration (Joint Ex. 1). The direct testimony of Bryan Manges (Duke Ex. 1) in support of the Stipulation was filed by Duke on August 20, 2020.

{¶ 14} On March 3, 2021, the attorney examiner scheduled the hearing to reconvene on April 1, 2021. Due to the continued state of emergency, and given the passage of Sub. H.B. 404, the attorney examiner directed that the hearing would be conducted through Webex, which enables the parties and interested persons to participate by telephone and/or video on the internet. Interested members of the public that wished to provide testimony were directed to register with the Commission before 12:00 p.m. on March 31, 2021, by telephone or internet. No members of the public registered to testify at the hearing.

{¶ 15} The hearing reconvened on April 1, 2021, through Webex.

III. DISCUSSION

A. *Summary of the Audit Reports*

1. GCR AUDIT REPORT

{¶ 16} The financial audit of Duke's GCR mechanism was conducted by Deloitte & Touche LLP (Deloitte) in accordance with the objectives outlined in Ohio Adm.Code Chapter 4901:1-14. In the audit report, Deloitte noted that it examined Duke's periodic filings pertaining to its GCR rates for the monthly periods ended September 27, 2018, October 28, 2018, November 28, 2018, January 1, 2019, January 30, 2019, February 28, 2019, March 31, 2019, April 30, 2019, May 30, 2019, June 30, 2019, July 30, 2019, and August 28, 2019. Deloitte stated that Duke's periodic filings, in all material respects, were in accordance with the uniform purchased gas adjustment clause, as set forth in Ohio Adm.Code Chapter 4901:1-14 and related appendices. Deloitte also offered three findings related to the GCR mechanism for the audit period. First, Deloitte noted that Duke included gas banked by enhanced firm balancing service suppliers within the storage inventory carrying charge calculation from September 2015 to February 2019, which resulted in an over-collection of $2,692,241. According to Deloitte, Duke adjusted the calculation as of March 2019 and agreed to refund the over-collection upon the issuance of an order by the Commission in the Company's management/performance audit case. As its second finding, Deloitte reported that Duke overstated the dollar value of gas purchased from Columbia Gas Transmission and understated gas purchased from United Energy Trading on the March 2018 Purchase Gas Statements by $31.10 due to a clerical error; however, the over- and under-statements are offsetting and result in the correct overall total expense balance within the statements. Finally, Deloitte indicated that Duke included the incorrect expected gas cost (EGC) on the cover page of its November 2018 monthly filing dated October 9, 2018, in Case No. 18-218-GA-GCR; however, because the correct rate was used in the EGC calculation, the clerical error on the cover page did not impact the GCR mechanism. (Staff Ex. 1 at 1-3.)

2. UEX Audit Report

{¶ 17} Deloitte reviewed Duke's UEX recovery mechanism for the period of April 1, 2018, through March 31, 2019, and noted no exceptions in the Company's calculations of its write-offs, recovery, and carrying charges for uncollectible expenses during that time period. Deloitte stated that charge-offs used in the calculations related only to account types with customers subject to the UEX rider. Deloitte noted that the bad debts written off for this period, net of customer recoveries, totaled $3,763,057. Further, based on a random review of 25 charge-offs, Deloitte noted three occurrences of charge-offs that exceeded Duke's 90-day policy. Deloitte indicated that Duke automatically runs a report to find any final accounts that have stalled in the system; however, because the report is run on a monthly basis, there can be a lag in charge-off of anywhere from one to 31 days past the 90 days under the policy. The three occurrences noted by Deloitte fell within this lag period. (Staff Ex. 2 at 1-2.)

3. PIPP Audit Report

{¶ 18} Deloitte reviewed Duke's PIPP recovery mechanism for the period of April 1, 2018, through March 31, 2019, and proved the mathematical accuracy in the Company's calculations of its deferred PIPP balances, arrearages credits, and PIPP rider revenues from sales customers during the audit period. Deloitte stated that it performed audit procedures related to the application of the PIPP rider rates in effect during the audit period, the application of credits to customer balances, planned billed volumes used to calculate the PIPP rider rate, and the balance of accumulated deferrals for the PIPP rider. Deloitte generally noted no exceptions to its audit procedures. With respect to its findings, Deloitte reported that Duke inadvertently used the March 31, 2018 PIPP arrears balance in the calculation of the 2019 PIPP rider interim rate rather than the March 31, 2019 PIPP arrears balance. Due to the use of the incorrect arrears balance, the 2019 PIPP rate of $0.005490 calculated and filed by Duke on May 30, 2019, was understated by $0.001700. According to Deloitte, on September 26, 2019, Duke re-filed to correct the proposed rate to $0.007190. (Staff Ex. 3 at 1-3.)

{¶ 19} Additionally, Deloitte noted one finding related to the inappropriate application of earned credits for a PIPP Plus customer due to a system limitation that prevents an earned credit from being applied when customers re-verify their PIPP account on the same day on which a bill is printed. Deloitte indicated that the customer in question timely paid the billed amount and that the gas arrears credit should have been applied to the account. According to Deloitte, Duke determined that this system limitation impacted 59 customer accounts and caused a total of $2,911.49 in credits to not be timely applied since the implementation of the PIPP program. Deloitte stated that Duke corrected all of the customer accounts during September 2019. (Staff Ex. 3 at 2.)

B. Summary of the Stipulation

{¶ 20} As stated previously, a Stipulation signed by Duke and Staff (Signatory Parties) was filed in these proceedings on June 8, 2020. The Stipulation was intended by the Signatory Parties to resolve all outstanding issues in these proceedings. The following is a summary of the provisions agreed to by the Signatory Parties and is not intended to replace or supersede the Stipulation:

(1) The Signatory Parties agree that Duke's GCR rates for the 12-month period ending August 28, 2019, were fairly determined by the Company in accordance with the provisions of Ohio Adm.Code Chapter 4901:1-14 and related appendices (Joint Ex. 1 at 4).

(2) The Signatory Parties agree that the GCR rates were accurately computed and the costs reflected in the GCR rates were properly incurred. The only exception was the error described in the GCR audit report as Finding No. 1, which pertains to the calculation of the storage inventory carrying charge from September 2015 to February 2019. The audit report also noted that Duke had adjusted its calculation of gas storage carrying costs and would refund the

over-collected amount back to customers upon direction from the Commission. Following the Commission's issuance of the Opinion and Order dated December 18, 2019, in Case No. 18-218-GA-GCR, et al., Duke issued the refund described in Finding No. 1, as reflected in its March 2020 Rider GCR Report. (Joint Ex. 1 at 5, 6.)

(3) The Signatory Parties agree that Duke's GCR rates were accurately applied to customer bills during the audit period, with the exception of the error described above (Joint Ex. 1 at 6).

(4) The Signatory Parties agree that the specific findings presented in the "Summary of Findings" in the GCR audit report, as well as any findings in the UEX and PIPP audit reports, are reasonable and should be adopted by the Commission, with the exception of minor clerical corrections noted in the Stipulation. The next audit or review will verify that Duke implemented any recommendations made in the present audit or review. (Joint Ex. 1 at 7.)

C. Consideration of the Stipulation

{¶ 21} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding upon the Commission, the terms of such an agreement are accorded 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.

{¶ 22} The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *See, e.g., Dominion Retail, Inc. v. The Dayton Power and Light Co.*, Case No. 03-2405-EL-CSS, et al., Opinion and Order (Feb.

2, 2005); *In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 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. 31, 1989). 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?

{¶ 23} 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* 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.

{¶ 24} Bryan Manges, Director of Gas Utilities and Infrastructure Accounting for Duke Energy Business Services LLC, testified that the Stipulation satisfies the first part of the Commission's three-part test. Mr. Manges explained that the Signatory Parties regularly participate in rate proceedings before the Commission, are knowledgeable in regulatory matters, and were represented by experienced and competent counsel. Addressing the second part of the three-part test, Mr. Manges testified that the Stipulation provides benefits for all customer groups and interested stakeholders by representing a timely and efficient resolution of all of the issues in these proceedings, after thoughtful deliberation and discussion by the parties. Finally, based upon his experience, involvement in these proceedings, and review of the Stipulation, Mr. Manges testified that the Stipulation complies with all relevant and important principles and practices. (Duke Ex. 1 at 1, 3-4.)

{¶ 25} After reviewing the evidence of record in these matters, the Commission finds that the Stipulation is supported by adequate information, that it represents a just and reasonable resolution of the issues raised in these proceedings, and that it violates no important regulatory principle or precedent. Further, we find that the Stipulation is the product of serious bargaining involving knowledgeable and capable parties in a cooperative process, and undertaken by parties representing the public and the utility company's interests, to resolve the aforementioned issues. In view of these findings, the Commission concludes that the Stipulation should be approved and adopted in its entirety. (Duke Ex. 1 at 3-4.) In addition, except as otherwise noted herein, we find that Duke accurately calculated its GCR, UEX, and PIPP rider rates for the applicable audit period.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 26} Duke is a natural gas company, as defined in R.C. 4905.03, and a public utility, as defined in R.C. 4905.02. As such, Duke is subject to the jurisdiction of this Commission.

{¶ 27} By Entry dated February 20, 2019, the Commission initiated Duke's GCR, UEX, and PIPP audits.

{¶ 28} On October 11, 2019, Deloitte filed its financial audit report of Duke's GCR mechanism, as well as its audit reports for the Company's UEX and PIPP riders.

{¶ 29} A hearing was called on January 14, 2020.

{¶ 30} On June 8, 2020, Duke and Staff filed the Stipulation in these matters.

{¶ 31} The hearing reconvened on April 1, 2021.

{¶ 32} The Stipulation submitted by Duke and Staff in these cases meets the criteria used by the Commission to evaluate stipulations, represents a just and reasonable resolution of the issues in these proceedings, and should be adopted.

{¶ 33} Except as otherwise noted herein, Duke accurately calculated its GCR, UEX, and PIPP rider rates for the applicable audit period.

V. ORDER

{¶ 34} It is, therefore,

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

{¶ 36} ORDERED, That Duke take all necessary steps to carry out the terms of the Stipulation and this Opinion and Order. It is, further,

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

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

COMMISSIONERS:
Approving:
Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

SJP/kck