

BEFORE

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. )  
) Case No. 06-216-GA-GCR  
)  
)

OPINION AND ORDER

The Commission, having considered the exhibits and the stipulation and recommendation (stipulation) presented by the parties, and being otherwise fully advised, hereby issues its opinion and order.

APPEARANCES:

David L. Pemberton, Jr., 211 Front Street, Cygnet, Ohio 43413, on behalf of Suburban Natural Gas Company.

Jim Petro, Attorney General of the State of Ohio, Duane W. Luckey, Senior Deputy Attorney General, by Stephen L. Beeler, Assistant Attorney General, 180 East Broad Street, Columbus, Ohio 43215-3793, on behalf of the staff of the Commission.

OPINION:

A. Summary of the Proceedings

Suburban Natural Gas Company (Suburban) is a "natural gas company" as defined in Section 4905.03(A)(6), Revised Code, and a public utility under Section 4905.02, Revised Code. Pursuant to Section 4905.302(C), Revised Code, 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 Chapter 4901:1-14, Ohio Administrative Code (O.A.C.), 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.

Section 4905.302, Revised Code, 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 the 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, Rule 4901:1-14-07, O.A.C., requires that periodic financial and management/performance (m/p) audits of each gas or natural gas company be conducted. Section 4905.302(C), Revised Code, and Rule

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4901:1-14-08(A), O.A.C., require the Commission to hold a public hearing at least 30 days after the filing of each required audit report and Rule 4901:1-14-08(C), O.A.C., specifies that notice of the hearing be published in at least one newspaper of general circulation in each county within the company's service area at least 15 days, but not more than 30 days, prior to the date of the scheduled hearing.

On February 22, 2006, the Commission initiated this proceeding, established the financial audit review period, the staff's audit report filing date, and the hearing date, and directed Suburban to publish notice of the hearing. On October 6, 2006, staff filed its audit of Suburban's GCR mechanism for the period of March 1, 2004, to February 28, 2006 (Commission Ordered Ex. 1). On December 5, 2006, the public hearing was conducted at the offices of the Commission. The staff indicated that it had reached a settlement with Suburban to resolve all of the issues in this matter and stated that a stipulation would be filed when it was completed (Jt. Ex. 1). No public witnesses appeared at the hearing to offer testimony. On December 4, 2006, Suburban filed proof that notice of the hearing was published in Delaware, Hancock, Henry, Lucas, Marion, and Wood counties, pursuant to Rule 4901:1-14-08, O.A.C. (Suburban Ex. 1). On December 6, 2006, the parties filed a stipulation that resolves all of the issues in the case.

#### B. Summary of Audit Report

According to the audit report, Suburban operates one jurisdictional service territory that is referred to as the SCOL system and one home rule service territory that is referred to as the CORE system (Commission Ordered Ex. 1 at 2). The SCOL system is operated primarily in Delaware and Marion counties and serves approximately 8,705 customers under Commission-approved rates. The CORE system serves approximately 5,540 customers primarily in Henry, Lucas, Wood and Hancock counties. Suburban also has a special agreement in place with Columbia Gas of Ohio (Columbia) for a selected group of sales customers who are billed under Columbia's prevailing GCR rate (*Id.* at 3).

In the certificate of accountability, staff attested that it examined Suburban's GCR rates for the three-month periods ended May 31, August 31, and November 30, 2004; February 28, May 31, August 31, and November 30, 2005; and February 28, 2006 (*Id.* at 1). Staff concluded that Suburban had fairly determined the GCR rates for those periods, in accordance with Chapter 4901:1-14, O.A.C.

Staff reviewed Suburban's calculations of its expected gas cost (EGC) and evaluated its supply sources, purchase volumes, sales volumes, and transportation services (*Id.* at 4). Staff noted that Suburban combined its CORE and SCOL filings into a single filing in March 2005, pursuant to the Commission's directive in Suburban's 2004 GCR proceeding, in determining its capacity and commodity requirements (*Id.* at 5). See, *In the Matter of the Regulation of the Purchased Gas Adjustment Clause Contained Within the*

*Rate Schedules of The Suburban Natural Gas Company*, Case No. 04-216-GA-GCR, Opinion and Order (June 2, 2004). Also in Suburban's 2004 GCR proceeding, the Commission ordered Suburban to consider establishing a storage gas inventory that would be managed by its gas supply manager. Staff observed that, in Suburban's 2005-2006 gas sales management and agency agreement (GSMAA), the company contracted for a storage gas inventory service in which certain commodity and volumetric costs for gas being injected into storage were not included in purchase gas costs (*Id.*). Staff recommended that Suburban place in its combined GCR filings the purchase volumes for the combined CORE and SCOL systems to reflect all volumes purchased on behalf of CGR customers (*Id.* at 6).

Staff evaluated the actual adjustment (AA) and noted that there were differences in the reported purchased gas costs and weighted average price per unit used to calculate the combined filings and that this resulted in several errors throughout the audit period (*Id.* at 7). Staff found that these errors, which were not self-correcting, totaled \$9,651.08 in the customers' favor (*Id.*). Staff recommended that a reconciliation adjustment (RA) of \$9,651.08, as contained within the combined AA, should be applied in the first GCR filing following this case (*Id.*).<sup>1</sup> With respect to the refund and RA, staff found Suburban had included all of the refunds received from Columbia Gas Transmission and correctly included the RA from the last audit. Further, staff had no recommendation for Suburban's RA calculations (*Id.* at 13).

In addition, staff examined the balance adjustment (BA) mechanism and found that the proper rates and sales volumes were used throughout the audit period and that there were no errors in Suburban's calculations. Staff had no recommendations for Suburban's BA calculations (*Id.* at 14). Staff also reviewed Suburban's unaccounted for gas (UFG) level; however, staff did not believe that the calculated purchase volumes reflected all of the volumes purchased on behalf of sales customers. Staff asserted that the UFG needed to be recalculated. As a result, staff indicated that it would file an addendum to this audit report upon submission of purchase volumes from Suburban. Staff recommended that Suburban provide staff with purchase volumes for the period July 1, 2003, through June 30, 2005 (*Id.* at 15). Staff also verified customer bills at random and identified no errors (*Id.* at 16).

Finally, staff analyzed Suburban's operations and management. Staff noted that Suburban has experienced significant customer growth and has taken several steps during this audit period to ensure system reliability for its CORE and SCOL systems through additional firm entitlements (*Id.* at 17). Staff also reported that Suburban has undertaken efforts to obtain additional supply receipt points, one of which was an

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<sup>1</sup> Since the filing of the audit report, the original amount of \$9,651.08 was found to be in error and was revised to \$6,837.17. This revised amount is reflected in the stipulation.

agreement with Del-Mar Pipeline Co. (Del-Mar agreement) that provides Suburban with additional capacity to deliver gas volumes to its city gate (*Id.* at 18). Staff recommended that any costs associated with the Del-Mar agreement be examined in the next audit.

### C. Summary of Stipulation

Pursuant to the stipulation, the parties agree that:

- (1) Suburban's GCR rates were accurately calculated during the audit period, in accordance with Chapter 4901:1-4, O.A.C., except for those instances noted in the audit report.
- (2) All findings and recommendations contained in the audit report are reasonable and should be adopted, except as noted in the stipulation.
- (3) The RA, as contained with the combined AA, of \$6,837.17 represents the net difference staff found in the AA calculations between CORE, SCOL, and the combined AA calculations of staff, versus those calculated by Suburban. This adjustment will be applied in the first GCR filing following the opinion and order in this case.
- (4) Suburban will place in its combined GCR filings the purchase volumes for the combined CORE and SCOL systems that reflect all volumes purchased on behalf of its GCR customers.
- (5) Suburban will determine and monitor the rate of its load growth and the impacts of this growth upon its daily load requirements.
- (6) Any costs associated with the Del-Mar agreement will be examined in Suburban's next audit.
- (7) Suburban will evaluate the compensation it received under its GSMAA for its utilized capacity. Staff will review the analysis and effort to maximize the compensatory and non-compensatory benefits that Suburban obtains through its GSMAA or other gas supply management agreements.
- (8) Suburban will provide staff with purchase volumes for the period of July 1, 2003, through June 30, 2005.

#### D. Discussion and Conclusion

Rule 4901-1-30, O.A.C., authorizes parties to Commission proceedings to enter into stipulations. Although not binding upon the Commission, the terms of such stipulations are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.* (1992), 64 Ohio St. 3d 123, at 125, citing *Akron v. Pub. Util. Comm.* (1978), 55 Ohio St. 2d 155. This concept is particularly valid where, as in this case, there is no opposition to the Commission's adoption of the stipulation. In reviewing the stipulation, our primary concern, however, is that the stipulation is in the public interest.

The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. See, e.g., *The Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (April 14, 1994); *Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al. (December 30, 1993); *The Cincinnati Gas & Electric Co.*, Case No. 92-1463-GA-AIR, et al. (August 26, 1993); *Ohio Edison Co.*, Case No. 89-1001-EL-AIR (August 19, 1993); *The Cleveland Electric Illuminating Co.*, Case No. 88-170-EL-AIR (January 31, 1989); *Restatement of Accounts and Records (Zimmer Plant)*, Case No. 84-1187-EL-UNC (November 26, 1985). In these cases and others, the Commission has used the following criteria in considering the reasonableness of a settlement agreement:

- (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?

The Ohio Supreme Court has endorsed the Commission's analysis using these criteria to resolve cases by a method economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.* (1994), 68 Ohio St. 3d 559, citing *Consumers' Counsel, supra*, at 126.

Based on our three-pronged standard of review, we find that the process involved serious bargaining by knowledgeable, capable parties. Suburban and staff have been involved in many cases before the Commission, including a number of GCR cases. Moreover, these parties have consistently provided extensive and helpful information to the Commission regarding Suburban's GCR and fuel-related policies and practices. The stipulation also advances the public interest because, as a package, it resolves all of the issues related to the review of Suburban's GCR and fuel-related policies and practices. Moreover, the stipulation does not violate any important regulatory principle. Rather,

the stipulation includes terms designed to enhance Suburban's ability to provide service to its customers. Accordingly, we find that the stipulation should be adopted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. Suburban is a natural gas company within the meaning of Section 4905.03(A)(6), Revised Code, and, as such, is a public utility subject to the supervision and jurisdiction of the Commission.
2. Pursuant to Section 4905.302, Revised Code, and Rule 4901:1-14, O.A.C., this proceeding was initiated by the Commission's entry of February 22, 2006, to review Suburban's GCR rates.
3. A financial audit of the three-month periods ended May 31, August 31, and November 31, 2004; February 28, May 31, August 31, and November 30, 2005; and February 28, 2006, was performed by the staff in substantial compliance with Section 4905.302, Revised Code, and Rule 4901:1-14-07, O.A.C. A certificate of accountability and an audit report was filed by staff on October 6, 2006.
4. Pursuant to Section 4905.302(C), Revised Code, and Rule 4901:1-14-08(A), O.A.C., a public hearing was held on December 5, 2006, and Suburban published notice of the hearing in compliance with Rule 4901:1-14-08(C), O.A.C.
5. The December 6, 2006 stipulation represents a just and reasonable resolution of the issues in this proceeding and should be approved by this Commission.
6. Suburban's determination of its GCR rates for the audit period was substantially in accordance with the financial procedural aspects of Chapter 4901:1-14, O.A.C., subject to the adjustments discussed in this opinion and order. Such rates were properly applied to customer bills and the gas costs passed through Suburban's GCR clause for the audit periods were fair, just, and reasonable.

ORDER:

It is, therefore,

ORDERED, That the stipulation of the parties be adopted and approved. It is, further,

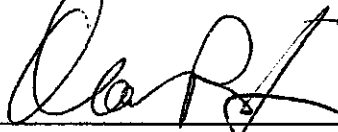
ORDERED, That Suburban take all necessary steps to carry out the terms of the stipulation and that Suburban be prepared to discuss its efforts with the next auditor. It is, further,

ORDERED, That the next auditor review Suburban's actions in carrying out the terms of the stipulation. It is, further,

ORDERED, That Case No. 06-216-GA-GCR be closed of record. It is, further,

ORDERED, That a copy of this opinion and order be served upon each party of record.

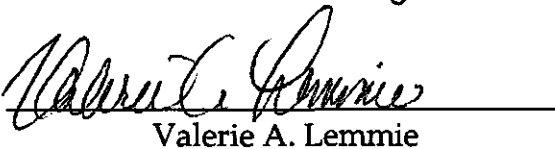
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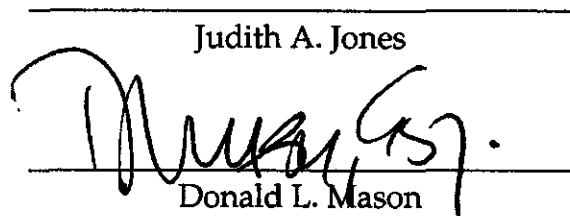
Alan R. Schriber, Chairman



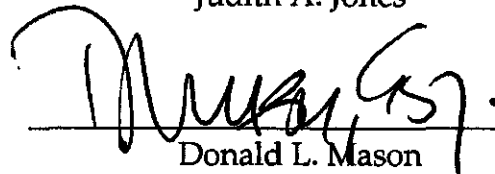
Ronda Hartman Fergus



Valerie A. Lemmie



Judith A. Jones



Donald L. Mason

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Renee J. Jenkins  
Secretary