

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) Case No. 07-221-GA-GCR
Columbia Gas of Ohio, Inc., and Related)
Matters.)

OPINION AND ORDER

The Commission, having considered the audit report and the joint stipulation and recommendation submitted by the signatory parties, and being otherwise fully advised, hereby issues its opinion and order.

APPEARANCES:

Mark R. Kempic and Stephen B. Seiple, 200 Civic Center Drive, P.O. Box 117, Columbus, Ohio 43216-0117, on behalf of Columbia Gas of Ohio, Inc.

Sheryl Creed Maxfield, First Assistant Attorney General, by Duane W. Luckey, Chief, Public Utilities Section, and Stephen A. Reilly and John H. Jones, Assistant Attorneys General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of the staff of the Public Utilities Commission of Ohio.

Janine L. Migden-Ostrander, Ohio Consumers' Counsel, by Larry S. Sauer and Joseph P. Serio, Assistant Consumers' Counsel, office of the Ohio Consumers' Counsel, 10 West Broad Street, Columbus, Ohio 43215, on behalf of residential utility consumers of Columbia Gas of Ohio, Inc.

Chester Wilcox & Saxbe LLP, by John W. Bentine and Mark S. Yurick, 65 East State Street, Suite 1000, Columbus, Ohio, 43215-4213, and Vincent A. Parisi, 5020 Bradenton Avenue, Dublin, Ohio, 43017, on behalf of Interstate Gas Supply, Inc.

Bobby Singh, 300 West Wilson Bridge Road, Suite 350, Worthington, Ohio 43085, on behalf of Integrus Energy Services, Inc.

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OPINION:I. HISTORY OF THE PROCEEDING

Columbia Gas of Ohio, Inc., (Columbia) 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 audits of each gas or natural gas company be conducted. Rule 4901:1-14-08(A), O.A.C., requires the Commission to hold a public hearing at least 60 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 provided in one of three ways at least 15 days, but not more than 30 days, prior to the date of the scheduled hearing.

On January 10, 2007, Columbia's 2007 gas cost recovery proceeding was opened. By entry dated January 24, 2007, the Commission established the financial audit period, established the date upon which the audit reports must be filed and the hearing date, and directed Columbia to publish notice of the hearing.

On January 30, 2008, Deloitte & Touche, LLP, (Deloitte) filed a financial audit of the GCR mechanism for each of the billing cycles from May 1, 2006, through October 28, 2007. Deloitte also filed, on January 30, 2008, a report on applying agreed-upon procedures relating to Columbia's uncollectible expense rider for the period between January 1, 2006, and December 31, 2006.

The Ohio Consumers' Counsel (OCC), Interstate Gas Supply, Inc. (IGS), and Integrys Energy Services, Inc. (Integrys) filed motions to intervene in this proceeding, which were granted by the attorney examiner. The hearing for this proceeding commenced on April 1, 2008, and continued on June 11, 2008.

On May 13, 2008, Columbia, the Staff, and OCC (Signatory Parties) filed a joint stipulation and recommendation (Stipulation). In comments filed on June 10, 2008,

Integrysts and IGS stated that they do not oppose the Stipulation provided that acceptance of the audit report should not serve either to narrow the scope or to bar inquiry into issues arising as part of the management performance audit in Case No. 08-221-GA-GCR for the overlapping time period. At the hearing on June 11, 2008, the Staff presented one witness in support of the Stipulation.

II. SUMMARY OF REPORTS

In its financial audit report, Deloitte certified that it had examined Columbia's monthly filings for each billing cycle in the period from May 1, 2006, through October 28, 2007, for conformity in all material respects with the financial procedures aspects of the uniform purchased gas adjustment as set forth in Chapter 4901:1-14, O.A.C., and related appendices. Deloitte found that Columbia fairly determined its GCR rates for those periods in accordance with the financial procedural aspects of Chapter 4901:1-14, O.A.C., and properly applied those rates to customer bills (Commission-ordered Ex. 1, certificate of accountability).

Moreover, Deloitte filed a report relating to Columbia's uncollectible expense rider for the period between January 1, 2006, and December 31, 2006. The report details the procedures that were performed by Deloitte to assist with the evaluation of that rider.

III. SUMMARY OF THE STIPULATION

The Stipulation was intended by the Signatory Parties to resolve all outstanding issues in this proceeding. The Stipulation includes, *inter alia*, the following provisions:

- (1) Columbia fairly determined its GCR rates for each billing cycle in the period from May 1, 2006, through October 28, 2007, in accordance with the financial procedural aspects of Chapter 4901:1-14, O.A.C., and related appendices. Columbia properly applied those rates to customer bills during that period.
- (2) Columbia correctly calculated and collected the uncollectible expense rider for the period between January 1, 2006, and December 31, 2006.
- (3) The proofs of publication filed by Columbia in this proceeding (Columbia Ex. 1) demonstrate that proper notice of the proceeding has been published in substantial compliance with the Commission's rules.

IV. EVALUATION OF THE STIPULATION

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 v. Dayton Power and Light*, Case No. 03-2405-EL-CSS et al., Opinion and Order (February 9, 2005); *Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR, Order on Remand (April 14, 1994); *Ohio Edison Co.*, Case Nos. 91-698-EL-FOR et al., Opinion and Order (December 30, 1993); *Cleveland Electric Illum. Co.*, Case No. 88-179-EL-AIR, Opinion and Order (January 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?

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, 563 (1994)(quoting *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio State 3d 123, 126 (1992)). 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.

We find the settlement is a product of serious bargaining among capable, knowledgeable parties. The Signatory Parties represent a wide diversity of interests including the utility, residential consumers, and the Staff. Moreover, no party is opposed to the Stipulation. Further, we note that Signatory Parties routinely participate in complex Commission proceedings and that counsel for the Signatory Parties have extensive experience practicing before the Commission in utility matters. Moreover, we find that the settlement, as a package, benefits ratepayers and the public interest. Finally, the Commission finds that the settlement does not violate any important regulatory principles or practices. Accordingly, we find that the Stipulation should be adopted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Columbia 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. Columbia is also a natural gas company for purposes of Sections 4905.302(C) and 4935.04, Revised Code.
- (2) Pursuant to Section 4905.302, Revised Code, on January 10, 2007, Columbia's 2007 gas cost recovery proceeding was opened. By entry dated January 24, 2007, the Commission established the financial audit period, established the date upon which the audit reports must be filed and the hearing date, and directed Columbia to publish notice of the hearing.
- (3) On January 30, 2008, Deloitte filed the financial audit covering each of the billing cycles from May 1, 2006, through October 28, 2007, and a report on applying agreed-upon procedures relating to Columbia's uncollectible expense rider for the period between January 1, 2006, and December 31, 2006 (Commission-ordered Ex. 1).
- (4) Intervention was granted to OCC, IGS and Integrys.
- (5) Columbia published notice of the public hearing in substantial compliance with Commission requirements and Sections 4905.302 and 4935.04, Revised Code, as applicable, and Columbia filed proof of its publications (Columbia Ex. 1).
- (6) The hearing for this proceeding commenced on April 1, 2008, and continued on June 11, 2008.
- (7) On May 13, 2008, a joint stipulation and recommendation (Joint Ex. 1) was filed, intending to resolve all outstanding issues in these proceedings.
- (8) The joint stipulation and recommendation filed on May 13, 2008, is reasonable and should be adopted.
- (9) Columbia fairly determined its GCR rates for each billing cycle in the period from May 1, 2006, through October 28, 2007, and properly applied those rates to customer bills.

ORDER:

It is, therefore,

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


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

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman


Paul A. Centolella


Ronda Hartman Fergus

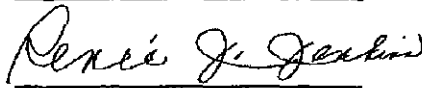

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GAP:ct

Entered in the Journal

JUL 09 2008


Renee J. Jenkins
Secretary