

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. 08-209-GA-GCR  
Northeast Ohio Natural Gas Corporation )  
and Related Matters. )

In the Matter of the Application of )  
Northeast Ohio Natural Gas Corporation ) Case No. 07-934-GA-UEx  
for Approval of an Adjustment to its )  
Uncollectible Expense Rider Rate. )

OPINION AND ORDER

The Public Utilities Commission of Ohio, having considered the audit reports and the stipulation and recommendation submitted by the signatory parties, and being otherwise fully advised, hereby issues its opinion and order.

APPEARANCES:

Weltman, Weinberg & Reis Co., LPA, by Andrew J. Sonderman, 175 South Third Street, Suite 900, Columbus, Ohio 43215, on behalf of Northeast Ohio Natural Gas Corporation.

Richard Cordray, Ohio Attorney General, by Duane W. Luckey, Section Chief, and William L. Wright, Assistant Attorney General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of Staff of the Commission.

OPINION:

I. Summary of the Proceedings

Northeast Ohio Natural Gas Corporation (Northeast) 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.

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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 16, 2008, the Commission initiated Case No. 08-209-GA-GCR (GCR Case), established the financial audit period, directed Staff to conduct the audit, and established the date upon which the financial audit report must be filed. By that same entry, the Commission set the hearing date and directed Northeast to publish notice of the hearing.

On September 12, 2008, Staff filed its financial audit report (Commission-ordered Ex. 1). On November 5, 2008, Staff filed updated tables to the financial audit report (Commission-ordered Ex. 1A). In addition, on September 12, 2008, Staff filed a report on applying agreed-upon procedures evaluating the recovery of the uncollectible expense through a bad debt recovery mechanism (Commission-ordered Ex. 2).

By entry issued September 26, 2008, the attorney examiner granted Staff's motions to extend the deadline for the filing of the Staff's financial audit report and for continuance of the hearing. By entry issued November 12, 2008, the attorney examiner granted a second continuance of the hearing in this matter and rescheduled the hearing to December 17, 2008. Since Northeast had not yet published notice of the previously scheduled hearing dates, the attorney examiner, in the November 12, 2008, entry, also directed Northeast to publish notice of the December 17, 2008, hearing.

On December 17, 2008, the public hearing was conducted at the offices of the Commission. At the hearing, Northeast submitted the proofs of publication that are required by Rule 4901:1-14-08, O.A.C. (Northeast Ex. 1). Northeast also submitted a stipulation and recommendation (stipulation) signed by Northeast and Staff (Joint Ex. 1). No public witnesses appeared at the hearing to offer testimony.

## II. Summary of the Reports

### A. Financial Audit

Northeast serves residential, small commercial, and small industrial customers (2,939 customers in its Fairfield System and 12,027 customers in its Strasburg System). In addition, Northeast transports gas to 50 transportation customers. Since 1986, Northeast has increasingly relied on interstate natural gas transmission pipelines to meet the needs of its customers (Commission-ordered Ex. 1 at 2-3).

Staff examined relevant documents provided by Northeast that support the GCR rates for the period of March 1, 2006, through February 29, 2008. Staff reports that Northeast has accurately calculated its GCR rates for the period under investigation, except for several instances noted in the audit report, in accordance with the financial procedural aspects of the uniform purchase gas adjustment clause, as set forth in Chapter 4901:1-14, O.A.C., and has properly applied the GCR rates to customer bills. Staff also reports that Northeast's latest analysis of unaccounted-for gas (UFG) indicates that the UFG percentage is below the five-percent ceiling currently imposed by the Commission (*Id.* at i, 15-16).

Staff reviewed Northeast's calculations of the expected gas cost (EGC) for the audit period and made observations concerning the company's supply sources, purchase volumes, and sales volumes. Staff observes that Northeast's gas supplies come from a combination of interstate supplies and local production. Staff states that Northeast continues to improve the reliability of its overall system by increasing the number of interconnections with interstate pipelines, as well as by integrating its individual, smaller distribution systems. Staff had no recommendations with regard to Northeast's EGC (*Id.* at 2-3).

As explained by Staff, the actual adjustment (AA) reconciles the monthly cost of purchased gas with the EGC billing rate. Staff notes that errors in the AA calculation can occur if the purchase gas costs are incorrectly reported, if there are errors in the stated sales volumes, or if the wrong EGC rate is used. Upon review of the documents supporting Northeast's AA calculation, Staff found several errors. Staff avers that the differences in the calculations by Staff and Northeast in the AA are not self-correcting through the GCR mechanism. Therefore, Staff recommends a reconciliation adjustment of \$615,766, which represents an increase in the company's GCR calculation (*Id.* at 4; Commission-ordered Ex. 1A, Table I at 3).

According to Staff, the refund and reconciliation adjustment (RA) is used to pass through the jurisdictional portion of refunds from gas suppliers and adjustments ordered

by the Commission. Staff found that, during the audit period, Northeast did not pass through the RA of \$14,065 ordered by the Commission in the company's last GCR audit case, Case No. 06-209-GA-GCR. Therefore, Staff recommends a reconciliation adjustment in the amount of \$14,065, which should be included in the next GCR filing following this opinion and order. This RA reconciliation results in an increase in the GCR calculation (Commission-ordered Ex. 1 at 9).

The balance adjustment (BA) is explained by Staff as the mechanism that corrects for the overrecovery or underrecovery of previously calculated AAs or RAs. Errors in the BA usually occur because sales volumes were incorrectly reported or because an incorrect rate was selected from the previous AA, RA, or BA calculations. During the audit, Staff found several errors in the company's BA calculation, with the difference being \$44,447.92. Staff submits that the differences in the calculations by Staff and Northeast of the BA are not self-correcting. Staff recommends a net reconciliation adjustment of (\$44,447.92) be applied to the first GCR filing following this opinion and order (*Id.* at 10; Commission-ordered Ex. 1A, Table II at 3). This adjustment results in a decrease in the GCR calculation.

Taking into consideration the recommended reconciliation adjustments for the AA, RA, and BA, the total adjustment to the GCR rates recommended by Staff in the audit report is \$585,383.08, which represents an increase in Northeast's GCR rates (Commission-ordered Ex. 1 at 1; Commission-ordered Ex. 1A, Table I at 3, Table II at 3).

#### B. Uncollectible Expense Recovery Mechanism Report

By order issued December 17, 2003, in *In the Matter of the Joint Application of The East Ohio Gas Company d.b.a. Dominion East Ohio, Columbia Gas of Ohio Inc., Vectren Energy Delivery of Ohio, Northeast Ohio Natural Gas Corp., and Oxford Natural Gas Company for Approval of an Adjustment Mechanism to Recover Uncollectible Expenses*, Case No. 03-1127-GA-UNC, the Commission concluded that the GCR audit dockets are appropriate for evaluating each company's handling of the adjustment mechanism for the uncollectible expense (UEX) rider rate. Therefore, Staff conducted a review of Northeast's UEX rider in order to assist in the evaluation of the recovery of UEX through a bad debt recovery mechanism.

Staff's report related to Northeast's UEX rider for the period of July 1, 2003, through December 31, 2006. In its report, Staff stated that, upon review of Northeast's annual balance reconciliations, the monthly recoveries for the UEX were slightly higher than those calculated by Staff. According to Staff, the company believes that this is the result of "free gas" volumes being included in the company's calculations. To rectify this situation, Staff recommends that Northeast increase its January 2007 beginning balance by \$17.27 to account for the overstatement of the volumes included in the UEX recoveries; therefore,

Staff believes that the beginning balance as of January 2007 should be \$48,818.51. On a going-forward basis, Staff also recommends that Northeast calculate the UEX recoveries using only those volumes for which customers are billed for their usage and excluding any "free gas" volumes (Commission-ordered Ex. 2).

### III. Summary of the Stipulation

As stated previously, a stipulation, signed by Northeast and Staff, was submitted on the record at the hearing held on December 17, 2008. The stipulation was intended by the signatory parties to resolve all outstanding issues in these proceedings. The stipulation includes, *inter alia*, the following provisions:

- (1) The financial audit report, Commission-ordered Exhibit 1, as revised in Commission-ordered Exhibit 1A, and the stipulation, Joint Exhibit 1, should be admitted into the record in these cases.
- (2) Staff's findings in the financial audit report, as updated, should be adopted by the Commission.
- (3) Northeast's level of UFG for the audit period under review is reasonable and within the requirements established in the Commission's rules.
- (4) Northeast agrees to discuss with Staff, prior to implementation, future substantive accounting changes that relate to its GCR calculation.
- (5) Northeast has accurately calculated its GCR rates during the audit period, subject to Staff's recommendations that the following reconciliation adjustments be included in the company's next GCR filing following the Commission's opinion and order: AA \$615,766; RA \$14,065; and BA (\$44,447.92).
- (6) Northeast agrees to implement the Staff's recommendations contained in the UEX report (Commission-ordered Ex. 2).

(Joint Ex. 1).

CONCLUSION:

Rule 4901-1-30, O.A.C., authorizes parties to Commission proceedings to enter into a stipulation. Although not binding on the Commission, the terms of such an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155 (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.

The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (April 14, 1994); *Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT (March 30, 1994); *Ohio Edison Co.*, Case No. 91-698-EL-FOR *et al.* (December 30, 1993); *Cleveland Electric Illum. Co.*, Case No. 88-170-EL-AIR (January 30, 1989); *Restatement of Accounts and Records (Zimmer Plant)*, Case No. 84-1187-EL-UNC (November 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:

- (a) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (b) Does the settlement, as a package, benefit ratepayers and the public interest?
- (c) 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 (1994), citing *Consumers' Counsel*, *supra*, 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 (*Id.*).

The Commission finds that the stipulation filed in these cases appears to be the product of serious bargaining among capable, knowledgeable parties. Northeast and Staff have been involved in cases before the Commission and have consistently provided extensive and helpful information to the Commission. In addition, the stipulation also meets the second criterion. As a package, the stipulation advances the public interest by resolving all the issues raised in these matters without resulting in extensive litigation.

Finally, the stipulation meets the third criterion because it does not violate any important regulatory principle or practice. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123 (1992). Accordingly, we find that the stipulation is reasonable and should be adopted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Northeast 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. Northeast is also a natural gas company for purposes of Sections 4905.302(C).
- (2) Section 4905.302, Revised Code, together with Rule 4901:1-14-08, O.A.C., 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.
- (3) On January 16, 2008, the Commission initiated the *GCR Case*, established the financial audit period, directed Staff to conduct the audit, and established the date upon which the financial audit report must be filed.
- (4) By entry issued November 12, 2008, the hearing was rescheduled to December 17, 2008, and Northeast was directed to publish notice of the hearing.
- (5) A financial audit for the period March 1, 2006, through February 29, 2008, was performed by Staff and filed on September 12, 2008. Updated tables to the audit report were filed by Staff on November 5, 2008.
- (6) The financial audit was performed, and the report of the audit was prepared, in substantial compliance with Section 4905.302, Revised Code, and Rule 4901:1-14-07, O.A.C.
- (7) A report on applying agreed-upon procedures evaluating the recovery of the uncollectible expense through a bad debt recovery mechanism was filed by Staff on September 12, 2008.
- (8) Northeast published notice of the public hearing in substantial compliance with Commission requirements and Section 4905.302, Revised Code.

- (9) The hearing was held on December 17, 2008.
- (10) At the hearing, a stipulation was submitted, intending to resolve all issues in this case. No one opposed the stipulation.
- (11) The stipulation meets the criteria used by the Commission to evaluate stipulations, is reasonable, and should be adopted.
- (12) Northeast's GCR rates were accurately computed by Northeast, except as set forth herein, and Northeast has accurately applied the GCR rates to customers' bills.

ORDER:

It is, therefore,

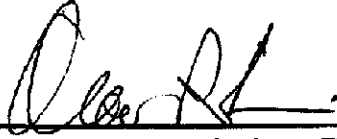
ORDERED, That the stipulation of the parties should be adopted and approved. It is, further,

ORDERED, That Northeast take all necessary steps to carry out the terms of the stipulation and this order. It is, further,

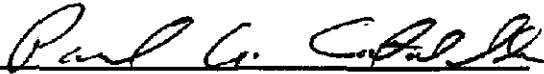


ORDERED, That a copy of this opinion and order be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman



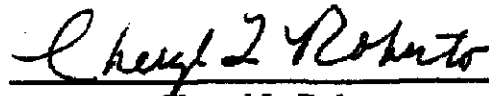
Paul A. Centolella



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Renee J. Jenkins  
Secretary