

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)
Piedmont Gas Company, Inc. to Increase its) Case No. 09-1862-GA-AIR
Rates and Charges for Natural Gas Service.)

OPINION AND ORDER

The Commission, considering the application, applicable law, stipulation, and other evidence of record, and being otherwise fully advised, hereby issues its opinion and order.

APPEARANCES:

Stephen M. Howard, Vorys, Sater, Seymour and Pease LLP, 52 E. Gay Street, Columbus, Ohio 43215, on behalf of Piedmont Gas Company, Inc.

Richard Cordray, Ohio Attorney General, by William L. Wright, Section Chief 180 East Broad Street, Columbus, Ohio 43215, on behalf of Staff of the Public Utilities Commission of Ohio.

OPINION:

I. INTRODUCTION

Piedmont Gas Company, Inc. (Piedmont, applicant) is a corporation under the laws of the State of Ohio. Piedmont is also a public utility engaged in the distribution and sale of natural gas to approximately 1,712 customers in Coshocton, Guernsey, Harrison, Holmes, and Tuscarawas counties, Ohio. Of these 1,712 customers, 1,511 are residential, 190 are commercial, and 11 are industrial sales customers. Piedmont also provides transportation service to 14 customers. Piedmont is, therefore, a public utility and a natural gas company within the definition of Sections 4905.02 and 4905.03(A)(5), Revised Code, and subject to the jurisdiction of the Commission in accordance with Sections 4905.04, 4905.05, and 4905.06, Revised Code.

On November 30, 2009, Piedmont filed its notice of intent to file an application for an increase in rates to be charged and collected for natural gas services. In the notice, Piedmont requested that the test year be established as the 12 months ended December 31, 2009, and that the date certain be June 30, 2009. By entry issued December 16, 2009, the Commission approved Piedmont's proposed date certain and test year.

On January 22, 2010, Piedmont filed an abbreviated application for an increase in rates in accordance with Chapter V, Rule 4901-7-01, Appendix A, Ohio Administrative Code (O.A.C.). Given the applicant's size, Piedmont's request for a waiver of Sections 4909.18(A) through (E), Revised Code, was granted by entry issued March 10, 2010. This same March 10, 2010, Commission entry directed Piedmont to publish notice of the application. Proof of publication was filed on September 24, 2010. By its application, Piedmont sought a rate increase which, if approved, would generate an additional \$310,908 in revenue, or approximately a 52 percent increase over current operating revenue.

Pursuant to Section 4909.19, Revised Code, Commission Staff conducted an investigation of the matters set forth in Piedmont's application. On August 12, 2010, the Staff filed its report of investigation (Staff Ex. 1). Copies of the Staff Report were served upon the mayor of each affected municipal corporation and other persons the Commission deemed interested in accordance with the requirements of Section 4909.19, Revised Code. In the Staff Report, Staff recommends a revenue increase of between \$122,905 and \$155,246 (Staff Ex. 1 at 2).

By entry issued on August 18, 2010, an evidentiary hearing was scheduled to commence on October 4, 2010, at the offices of the Commission. By entry dated September 14, 2010, a local public hearing was scheduled for September 29, 2010, in Uhrichsville, Ohio. The September 14, 2010, entry also directed Piedmont to publish notice of the local public hearing. Piedmont filed its proof of publication of notice of the local public hearing as a late-filed exhibit on October 8, 2010 (Piedmont Ex. 3). The local hearing was held, as scheduled, on September 29, 2010, in Uhrichsville, Ohio. Two witnesses appeared to offer testimony at the local hearing. The evidentiary hearing was held as scheduled on October 4, 2010. At the evidentiary hearing, Piedmont and Staff (Stipulating Parties) stated that they had resolved the issues in this case and had filed a Joint Stipulation and Recommendation (Stipulation) on October 1, 2010 (Joint Ex. 1). Joint Exhibit 1 consists of the Stipulation and Addendums A through D. Addendum A consists of revisions to the exhibits and tables included in the Staff Report. Addendum B represents revisions to pages 66-68 of the Staff Report. Addendum C contains revised tariff sheets, and Addendum D is a proposed customer notice.

II. SUMMARY OF THE STIPULATION

As a part of the Stipulation, the parties agree that:

- (1) No objections were filed with respect to the Staff Report and, therefore, all material findings and conclusions set forth in the Staff Report are adopted and will be implemented.

- (2) The stipulated revenue requirement calculations are set forth in Addendum A to the Stipulation.
- (3) The value of Piedmont's property used and useful for the provision of service as of the date certain of June 30, 2009, is \$1,972,800 and the company is entitled to a rate of return of 10 percent.
- (4) Piedmont's total adjusted operating revenues for the test year are \$3,198,872; its total adjusted operating expenses are \$3,086,428; and its net operating income is \$112,444, as forth in Addendum A, Schedule C-1, column a.
- (5) A net operating income of \$112,444 is insufficient to provide Piedmont with reasonable compensation for natural gas service rendered to its customers. For purposes of this proceeding, a revenue increase of \$139,075 results in net operating income of \$197,279 which is just and reasonable.
- (6) The rate case expense associated with this application should be amortized over five years.
- (7) That the sheets attached to the Stipulation as Addendum B should replace and supersede pages 66, 67, and 68 of the Staff Report.
- (8) All of the Staff recommendations that relate to rates and tariffs as found on pages 10-13 of the Staff Report should be adopted. These recommendations include establishing a new uncollectible expense rider rate of \$0.02385 per thousand cubic feet (mcf), approval of a gross receipts tax rider and mcf excise tax rider, and modifying language for Transportation Service. Additional Staff recommendations include a \$30.00 return check charge, a \$50.00 reconnection charge, a \$25.00 field collection fee, and a service tap charge equal to the lesser of actual costs or \$486.00. The Stipulating Parties agree that Staff's recommendations are reflected in the tariff pages appended to the Stipulation as Addendum C and the Stipulating Parties recommend approval by the Commission.
- (9) Other non-tariff recommendations to be adopted include:
 - (a) Piedmont will maintain a separate reserve ledger for regulatory accounting with Staff's calculated depreciation reserve by plant account at date certain and going forward (Staff Report at 4);

- (b) Piedmont will submit a revised estimate of rate case expense as a late-filed exhibit (*Id.* at 7);
 - (c) Piedmont will utilize the Staff-recommended depreciation accrual rates set forth in Schedule B-3.3 (*Id.* at 8);
 - (d) Piedmont will establish recordkeeping according to Federal Energy Regulatory Commission guidelines so that the separation of costs between classes can be identified more accurately (*Id.* at 14);
 - (e) Piedmont will submit to the Commission for approval within 90 days of the Staff Report written agreements with customers in order for the discounted rates to continue (*Id.*);
 - (f) Piedmont will meet with Staff prior to the next base rate filing to discuss the information required to perform a cost allocation study that will better assess the impact of a potential shift to the straight fixed variable rate design (*Id.* at 19);
 - (g) Piedmont will replace any prone to failure Design-A risers in Piedmont's system (*Id.* at 23);
 - (h) Piedmont will assume responsibility for maintaining, repairing, and replacing all customer service lines (*Id.* at 24); and
 - (i) Piedmont will remove text from its website that indicates that all renters must pay a security deposit (*Id.* at 25).
- (10) Piedmont will notify affected customers of the increase in rates by the proposed customer notice as set forth in the Stipulation, Addendum D. The Stipulating Parties agree that this notice is reasonable.

III. EVALUATION OF THE STIPULATION

The Stipulation in this case is unopposed. Rule 4901-1-30, O.A.C., authorizes parties to Commission proceedings to enter into stipulations. Although not binding on the Commission, the terms of such an agreement are accorded substantial weight. See, *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, at 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. See, e.g., *Ohio-American Water Co.*, Case No. 99-1038-WW-AIR (June 29, 2000); *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:

- (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 (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.*).

Based on our three-prong standard of review, we find that the first criterion, that the process involved serious bargaining by knowledgeable, capable parties, is met. Counsel for Piedmont and Staff participated in settlement discussions. They have been involved in many cases before the Commission, and each enjoyed capable, technical

back-up support as well. Our review of the terms of the Stipulation reveals that the parties engaged in comprehensive negotiations.

The Stipulation also meets the second criterion. As a package, it advances the public interest by resolving all issues raised in this proceeding without incurring the time and expense of extensive litigation otherwise recoverable from the applicant's customers. This case represents Piedmont's first request to increase rates that had been in effect since 1994. Although the Stipulation includes a rate increase for all jurisdictional customers, the increase will allow Piedmont the opportunity to recover expenses and maintain service quality.

Finally, the Stipulation meets the third criterion because it does not violate any important regulatory principle or practice. Again, this settlement recommends rates at just and reasonable levels, despite the vintage of existing rates, and avoids rate shock for jurisdictional customers.

The Commission notes that recently we have approved a straight fixed variable (SFV) rate design, whereby the bulk of the distribution revenues are recovered through the fixed charge, for some of the larger natural gas companies. As noted in the staff report in this case, one of the motivating factors to move to an SFV rate design is the presence of a demand-side management (DSM) program. However, as noted by Staff, Piedmont does not have a DSM program in place that would justify an SFV rate design and requiring a DSM program would only further increase the company's rates. Furthermore, Staff recommended that a cost-of-service study be done prior to a move to an SFV rate design in order to ensure proper allocation of revenue between customer classes. (Staff Ex. 1 at 19.) To that end, the Commission finds that Piedmont should meet with Staff prior to the filing of its next base rate case to discuss the performance of a cost allocation study in order to better assess the impact if Piedmont was to move to an SFV rate design.

Our review of the Stipulation indicates that it is in the public interest and represents a reasonable disposition of this proceeding. We will, therefore, adopt the Stipulation in its entirety.

IV. RATE OF RETURN AND AUTHORIZED INCREASE

As stipulated by the parties, Piedmont has a net operating income of \$112,444 under its present rates. Applying Piedmont's current net operating income to the rate base of \$1,972,800 results in a rate of return of 5.70 percent. Such a rate of return is insufficient to provide the applicant with reasonable compensation for the service it renders to its customers.

The parties have agreed that Piedmont should be authorized to increase its revenue by \$139,075, an increase of approximately 4.35 percent over current adjusted annual revenue. Adding the stipulated increase of \$139,075 to the stipulated test-year revenue of \$3,198,872 produces a new pro forma revenue total of \$3,337,947. The net operating income under the rates agreed to in the Stipulation will be \$197,280 and, when applied to the rate base of \$1,972,800, results in a rate of return of approximately 10.0 percent (Stipulation Addendum A, Schedule A-1).

The Commission finds the stipulated increase of \$139,075 in revenue, which results in a rate of return of approximately 10.0 percent, to be fair, reasonable, and supported by the record and, therefore, will adopt the stipulated increase and rate of return for purposes of this proceeding.

V. RATES AND TARIFFS

As part of its investigation in this matter, Staff reviewed Piedmont's various rates and charges, and the provisions governing the terms and conditions of service. By way of the Stipulation, the parties have resolved all outstanding issues. Attached to the Stipulation filed on October 1, 2010, were proposed tariffs that would produce the revenue authorized by this order and which are in conformance with the changes agreed to by Staff (Joint Exhibit 1, Addendum C). Staff has reviewed the proposed tariffs and has recommended that they be approved as part of the Stipulation. The Commission finds that the tariffs filed on October 1, 2010, attached to the Stipulation as Addendum C, are reasonable and will be approved as part of the Stipulation.

VI. CUSTOMER NOTICE AND EFFECTIVE DATE

The rates approved herein shall be effective on a service-rendered basis. Piedmont should be aware, however, that final copies of the approved tariffs must be filed before the tariffs can become effective.

Piedmont has prepared a form of customer notice as part of the Stipulation docketed on October 1, 2010 (Joint Ex. 1, Addendum D). The notice is approved and the applicant shall send the notice to customers in accordance with the terms of the Stipulation.

FINDINGS OF FACT:

- (1) On November 30, 2009, Piedmont filed a notice of intent to file an application for an increase in rates. In that notice, the applicant requested a test year of the 12 months ended December 31, 2009, and a date certain of June 30, 2009.

- (2) By Commission entry issued December 16, 2009, the test year and date certain were approved. Piedmont's application was filed on January 22, 2010.
- (3) On August 12, 2010, Staff filed its written report of investigation with the Commission.
- (4) The local hearing was held on September 29, 2010, in Uhrichsville, Ohio. Two witnesses offered testimony at the public hearing.
- (5) The evidentiary hearing was held on October 4, 2010.
- (6) On October 1, 2010, the Stipulation was filed on behalf of Piedmont and Staff which resolved all issues raised in this case.
- (7) As part of the Stipulation, the applicant filed proposed revised tariffs and a customer notice.
- (8) The value of all of Piedmont's jurisdictional property used and useful for the rendition of natural gas service to customers affected by this application, determined in accordance with Section 4909.15, Revised Code, is not less than \$1,972,800.
- (9) The parties agreed that Piedmont's current adjusted operating revenue is \$3,198,872, which produces a net operating income of \$112,444. The current net operating income, when applied to a rate base of \$1,972,800, results in a rate of return of 5.70 percent. The parties agreed that Piedmont is entitled to a revenue increase of \$139,075 which will result in authorized operating revenues of \$3,337,947. The applicant's net operating income under the rates agreed to in the Stipulation will be \$197,280. The proposed net operating income of \$197,280, when applied to a rate base of \$1,972,800, results in a rate of return of approximately 10.0 percent.
- (10) The gross annual revenue to which Piedmont is entitled for purposes of this proceeding is \$3,337,947.

CONCLUSIONS OF LAW:

- (1) Piedmont's application was filed, and this Commission has jurisdiction to hear the request made in the application, pursuant to the provisions of Sections 4909.17, 4909.18, and 4909.19, Revised Code. Further, the application complies with the requirements of these statutes.

- (2) Staff conducted an investigation of the application, filed its report, and served copies of the Staff Report on interested persons in accordance with the requirements of Section 4909.19, Revised Code. The hearings and notice thereof complied with the requirements of Sections 4909.19 and 4903.083, Revised Code.
- (3) The Stipulation is the product of serious bargaining between knowledgeable parties, benefits ratepayers, advances the public interest, and does not violate any important regulatory principles or practices. The unopposed Stipulation submitted by the signatory parties is reasonable and shall be adopted in its entirety.
- (4) The existing rates and charges for gas service are insufficient to provide Piedmont with adequate net annual compensation and return on its property used and useful in the provision of natural gas service.
- (5) A rate of return of 10.0 percent is fair and reasonable under the circumstances of this case and is sufficient to provide Piedmont just compensation and return on its property used and useful in the provision of natural gas service to its customers.
- (6) Piedmont's proposed revised tariffs and notice to customers, as attached to the Stipulation, are consistent with the discussion and findings set forth in this opinion and order and shall be approved. The applicant's present tariffs governing natural gas service to its customers affected by this opinion and order should be withdrawn and canceled.

ORDER:

It is, therefore,

ORDERED, That the Stipulation filed on October 1, 2010, be approved in its entirety in accordance with this opinion and order. It is, further,

ORDERED, That the application of Piedmont for authority to increase its rates and charges for gas service be granted to the extent provided in this opinion and order. It is, further,

ORDERED, That Piedmont meet with Staff prior to the filing of its next base rate case to discuss the performance of a cost allocation study in order to better assess the impact if Piedmont was to move to an SFV rate design. It is, further,

ORDERED, That Piedmont be authorized to file in final form four complete, printed copies of tariffs consistent with this opinion and order, and to cancel and withdraw its superseded tariffs. One copy shall be filed in this case docket, one copy shall be filed with Piedmont's TRF docket and the remaining two copies shall be designated for distribution to the Commission's utilities department. It is, further,

ORDERED, That the effective date of the new tariffs shall be a date not earlier than the date of this decision, and the date upon which four complete, printed copies of final tariffs are filed with the Commission. The new tariffs shall be effective for services rendered on or after such effective date. It is, further,

ORDERED, That Piedmont's proposed customer notice, as attached to the Stipulation filed October 1, 2010, be approved and that Piedmont be directed to send that notice to its customers in accordance with this opinion and order. It is, further,

ORDERED, That nothing in this opinion and order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this opinion and order be served Piedmont, its counsel, and upon all other interested persons of record.

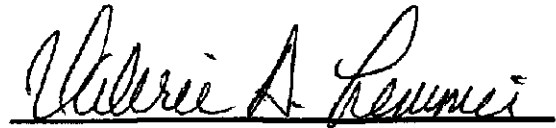
THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman



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Entered in the Journal

OCT 15 2010



Renee J. Jenkins
Secretary