

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. 10-221-GA-GCR
Columbia Gas of Ohio, Inc. and Related)
Matters.)

In the Matter of the Audit of the)
Uncollectible Expense Rider of Columbia) Case No. 10-421-GA-UEX
Gas of Ohio, Inc. and Related Matters.)

OPINION AND ORDER

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

APPEARANCES:

Stephen B. Seiple and Brooke E. Leslie, 200 Civic Center Drive, Columbus, Ohio 43215, on behalf of Columbia Gas of Ohio, Inc.

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

Mike DeWine, Ohio Attorney General, by John H. Jones, Assistant Section Chief, and Stephen A. Reilly, Assistant Attorney General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of the Staff of the Public Utilities Commission of Ohio.

OPINION:

I. HISTORY OF THE PROCEEDINGS

Columbia Gas of Ohio, Inc. (Columbia) is a public utility under Section 4905.02, Revised Code, and a natural gas company, as defined in Section 4905.03(A)(5), 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. 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 at least 15 days, but not more than 30 days, prior to the date of the scheduled hearing.

On November 17, 2009, Case No. 10-221-GA-GCR (GCR docket) was opened in order for the Commission to review the operation of the purchased gas adjustment clause and the gas purchasing practices and policies of Columbia. By entry dated March 31, 2010, the Commission established m/p and financial audit periods, established the date upon which the audit reports must be filed, set January 18, 2011, as the hearing date, and directed Columbia to publish notice of the hearing.

By finding and 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, et al., for Approval of an Adjustment Mechanism to Recover Uncollectible Expenses*, Case No. 03-1127-GA-UNC, the Commission approved five gas distribution companies' application to recover uncollectible expenses (UEX) through a rider. A requirement of the order in that case was that the UEX rider would be audited in the course of a company's GCR audit. By entry issued March 31, 2010, the Commission established the audit period for Columbia's UEX rider and the date upon which the audit report must be filed.

Pursuant to Rule 4901:1-14-07(C), O.A.C., Columbia is required to submit a certificate of accountability by an independent auditor attesting to the accuracy of the financial data pertaining to the period of the GCR rate activities specified. In accordance with the Commission's March 31, 2010, entry, Columbia selected Deloitte & Touche, LLP, (Deloitte) to conduct the financial audit. On November 18, 2010, Deloitte filed a financial audit of the GCR mechanism for each of the billing cycles

from October 28, 2008 through March 29, 2010 (Commission-ordered Ex. 1). Deloitte also filed, on November 18, 2010, reports on applying agreed-upon procedures relating to Columbia's UEX rider for the period between January 1, 2008, and December 31, 2008 (Commission-ordered Ex. 2), and for the period between January 1, 2009, and December 31, 2009 (Commission-ordered Ex. 3). Finally, on that same date, Deloitte filed a report on applying agreed-upon procedures relating to Columbia's off-system sales and capacity release revenues (Commission-ordered Ex. 4).

Rule 4901:1-14-07, O.A.C., also requires an independent auditor or consulting firm, selected by the Commission, to perform the m/p audit of Columbia's compliance with the provisions of Chapter 4901:1-14, O.A.C. By entry dated May 19, 2010, the Commission selected Exeter Associates, Inc. (Exeter) to conduct the m/p audit of Columbia. Exeter filed its m/p audit report on November 18, 2010 (Commission-ordered Ex. 5). The m/p audit period in the audit report covered November 2008 through March 2010.

The Ohio Consumers' Counsel (OCC) filed a motion to intervene in the GCR docket, which was granted by the attorney examiner at the January 18, 2011, hearing. Further, the attorney examiner granted a motion to continue the hearing until March 14, 2011. On March 8, 2011, Columbia filed proofs of publication (Columbia Ex. 1).

On March 14, 2011, a joint stipulation and recommendation (Stipulation or Joint Ex. 1) was filed by Columbia, OCC, and Staff (Signatory Parties), and Columbia filed the testimony of Thomas J. Brown, Jr. in support of the Stipulation (Columbia Ex. 6). The hearing reconvened on March 14, 2011.

II. SUMMARY OF THE AUDIT REPORTS

In its financial audit report, Deloitte certified that it had examined Columbia's monthly filings for each billing cycle in the period from October 28, 2008 through March 29, 2010, for conformity in all material respects with the financial procedural 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 at 1.)

Deloitte found that Columbia overstated its GCR rate due to clerical errors in the calculation of the expected gas cost, actual adjustment, and supplier refund and reconciliation adjustment in the February (effective January 29, 2010) and March (effective March 1, 2010) GCR filings. In both the February and March filings, these

errors caused an overstatement of the non-Percentage of Income Payment Plan (PIPP) GCR rate of \$0.01 per thousand cubic feet (Mcf). Deloitte reported that, according to Columbia, these errors were corrected in the Choice/Standard Service Offer/Standard Choice Offer Reconciliation Rider (CSRR) rates effective June 29, 2010. (Commission-ordered Ex. 1 at 2.)

Moreover, Deloitte filed reports relating to Columbia's UEX rider for the period between January 1, 2008, and December 31, 2008, and for the period between January 1, 2009, and December 31, 2009. The reports detail the procedures that were performed by Deloitte to assist with the evaluation of that rider. Deloitte confirmed that Columbia correctly calculated its UEX charge-offs, recovery, and carrying charges during those periods. Deloitte further noted, based on a random review of charge-offs and recoveries, that the charge-offs and recoveries properly reflected the customers' billing history. (Commission-ordered Exs. 2 at 1-2 and 3 at 1-2.)

Finally, Deloitte filed a report relating to Columbia's compliance with the terms outlined by the Commission related to the amounts credited to sales customers pursuant to any Commission-approved mechanisms applicable to the sharing of off-system sales and capacity release revenues for the period from November 1, 2008 through March 31, 2010. The report details the procedures that were performed by Deloitte to examine Columbia's monthly off-system sales and capacity release margins, and explains that the audit determined that Columbia properly accounted for the impact of off-system sales and capacity release revenues. (Commission-ordered Ex. 4 at 1-2.)

The m/p audit period covered November 1, 2008 through March 31, 2010. In the m/p audit, Exeter reviewed Columbia's operations in a number of areas, including management and organization, gas resource planning, capacity utilization and procurement activity, and transportation service. According to the m/p audit report, Exeter found that, overall, Columbia's audit period gas purchasing policies and practices were consistent with the terms and conditions of the Commission-approved stipulations under which Columbia operated (Commission-ordered Ex. 5 at v). However, Exeter provided recommendations regarding minimization of capacity costs, analysis of capacity options, sales rights, and seasonal storage capacity supporting time-differentiated transactions, finding, for most of these issues, that they should be reviewed by the Columbia Collaborative, with Commission oversight (Commission-ordered Ex. 5 at 4-34, 4-35, 5-27, 5-28). All of these recommendations were incorporated into the Stipulation by the Signatory Parties.

III. SUMMARY OF THE STIPULATION

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) Columbia's GCR rates for the period October 28, 2008 through March 29, 2010, were fairly determined by Columbia in accordance with Chapter 4901:1-14, O.A.C., and related appendices, during the audit period.
- (2) Columbia accurately computed the GCR rates and the GCR rates were accurately applied to customer bills during the audit period.
- (3) The financial audit report filed by Deloitte on November 18, 2010, should be adopted.
- (4) The UEX rider audit reports for 2008 and 2009, which were filed by Deloitte on November 18, 2010, should be adopted.
- (5) The audit report relating to Columbia's off-system sales and capacity revenues filed by Deloitte on November 18, 2010, should be adopted.
- (6) The m/p audit report filed by Exeter on November 18, 2010, should be adopted.
- (7) All of the recommendations set forth in the m/p audit report shall be considered by Columbia and its stakeholders in future Columbia Collaborative discussions and negotiations. Any stakeholder may introduce any of the following issues for discussion and negotiation at future Columbia Collaborative sessions or for Commission resolution:
 - (a) Columbia's future interstate pipeline capacity entitlement levels should be reviewed, with Commission oversight, by the Columbia Collaborative. The Signatory Parties further agree that, with regard to those contracts that expire prior to March 31, 2013, Columbia will

discuss with the Columbia Collaborative the alternatives that Columbia is considering before taking any renewal or extension actions with respect to such expiring contracts beyond the March 31, 2013, date.

- (b) The m/p audit report noted that, in Columbia's pipeline capacity study, two economic alternatives for the Maumee market were addressed. The ANR Pipeline option evaluated replacement of Panhandle Eastern Pipeline (PEPL) capacity and the peaking service option evaluated the replacement of Columbia Gas Transmission LLC (TCO) capacity. The m/p audit report found that, as Columbia continues to monitor capacity options, both alternatives should be considered for the replacement of PEPL and TCO capacity as both alternatives serve the same market. In addition, the peaking proposal rejected by Columbia in its study, because it included daily index pricing for supply purchases, should be fully evaluated based on estimated costs, rather than being dismissed simply because of daily index pricing.
- (c) The Columbia Collaborative, with Commission oversight, should consider future changes to the accounting for sales rights transactions, which consider the gas cost impacts of those transactions.
- (d) The Columbia Collaborative, with Commission oversight, should consider providing CHOICE suppliers with access to the TCO firm storage service seasonal storage capacity that Columbia currently uses to support its time-differentiated exchange activities.

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. 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.* (1994), 68 Ohio St. 3d 559, 563. 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 in these cases is a product of serious bargaining among capable, knowledgeable parties. The evidence in the record of these proceedings demonstrates that the Signatory Parties represent a diversity of interests, including the utility, OCC, and Staff, and that no party is opposed to the Stipulation. According to Columbia witness Brown, the Stipulation is the product of an open process involving extensive negotiations in which all parties were represented by able counsel and

technical experts (Columbia Ex. 6 at 3). The Commission finds that the Stipulation in these cases benefits ratepayers and advances the public interest because, as a package, it resolves all of the issues related to the review of Columbia's GCR policies and practices. Additionally, as Mr. Brown testified, Columbia has agreed to discuss certain issues with its Collaborative Group pursuant to the recommendations contained in the m/p audit report. He explained that, to the extent those discussions identify reasonable and cost-effective opportunities to enhance and improve Columbia's gas supply management and operations activities, the benefits of those improvements will be passed on to Columbia's customers. (Columbia Ex. 6 at 4.) Moreover, the Stipulation does not violate any important regulatory principle. Mr. Brown testified that the Stipulation is based, in large part, on the findings and recommendations of the m/p audit report, which analyzed Columbia's gas supply planning and gas acquisition policies and practices and made recommendations for the purpose of ensuring that those activities comply with sound regulatory principles and practices (Columbia Ex. 6 at 5). Accordingly, the Commission finds that the Stipulation is reasonable and should be adopted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Columbia is a natural gas company as defined in Section 4905.03(A)(5), Revised Code, and a public utility under Section 4905.02, Revised Code. Columbia is also a natural gas company for purposes of Section 4905.302(C), Revised Code.
- (2) By entry issued March 31, 2010, the Commission established financial, m/p, and UEX rider audit periods.
- (3) Intervention in the GCR docket was granted to OCC on January 18, 2011.
- (4) The m/p audit report was filed by Exeter on November 18, 2010. The financial audit reports, reports on applying agreed-upon procedures relating to Columbia's UEX rider, and report on applying agreed-upon procedures relating to Columbia's off-system sales and capacity release revenues were filed by Deloitte on November 18, 2010.
- (5) Columbia published notice of the public hearing in the GCR docket in substantial compliance with Commission requirements and Section 4905.302, Revised Code (Joint Ex.

- 1 at 6), and Columbia filed its proofs of publication (Columbia Ex. 1).
- (6) The hearing commenced on January 18, 2011, and continued on March 14, 2011.
 - (7) On March 14, 2011, the Signatory Parties filed the Stipulation, intending to resolve all outstanding issues in these proceedings.
 - (8) The financial audit and m/p audit were performed in substantial compliance with Section 4905.302, Revised Code, and Rule 4901:1-14-07, O.A.C.
 - (9) The Stipulation filed on March 14, 2011, is reasonable and should be adopted.
 - (10) Columbia fairly determined its GCR rates and properly applied those rates to customer bills during the GCR audit period, except for those instances noted in the financial audit report.
 - (11) Columbia accurately calculated the UEX rider rates during the UEX audit periods.
 - (12) Columbia properly accounted for the impact of off-system sales and capacity release revenues.
 - (13) During the m/p audit period, Columbia's gas purchasing policies and practices were consistent with the terms and conditions of the Commission-approved stipulations under which Columbia operated.

ORDER:

It is, therefore,

ORDERED, That the Stipulation filed by the Signatory Parties be adopted and approved. It is, further,

ORDERED, That Columbia take all necessary steps to carry out the terms of the Stipulation and this opinion and 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


Todd A. Snitchler, Chairman


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Steven D. Lesser


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