

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Regulation of the)
Purchased Gas Adjustment Clauses)
Contained Within the Rate Schedules of the) Case No. 11-217-GA-GCR
Waterville Gas & Oil Company and Related)
Matters.)

In the Matter of the Uncollectible Expense)
Rider of the Waterville Gas & Oil Company) Case No. 11-317-GA-UEX
and Related Matters.)

OPINION AND ORDER

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

OPINION:

I. INTRODUCTION

Waterville Gas & Oil Company (Waterville or the company) is a natural gas company as defined in Section 4905.03(A)(5), Revised Code, and is a public utility under Section 4905.02, Revised Code. Waterville is also a gas company within the meaning of Section 4905.302(C), Revised Code, pursuant to which this Commission promulgated rules for a uniform purchased gas adjustment clause to be included in the schedules of 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 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 audits of each gas or natural gas company be conducted. Section 4905.302(C), Revised Code, and Rule 4901:1-14-08(A), O.A.C., require the Commission to hold a public hearing at least 60 days after the filing of an audit report and Rule 4901:1-14-08(C), O.A.C., specifies that notice of the hearing be provided at least 15 days and not more than 30 days prior to the date of the scheduled hearing.

On January 19, 2011, the Commission initiated Case No. 11-217-GA-GCR (GCR docket) by the issuance of an entry which established a financial audit review period, the date of hearing, and due dates for various filings. The Commission also directed the company to publish notice of the hearing. The GCR audit report reviews the audit period February 1, 2009 through January 31, 2011 (Staff Ex. 1).

By opinion and order issued in Case No. 07-194-GA-AIR, the Commission approved a stipulation and recommendation between Waterville and Staff, which, *inter alia*, provided for the establishment of an uncollectible expense (UEX) rider. By entry issued January 19, 2011, in Case No. 11-317-GA-UEX (UEX docket), the Commission established the audit period for Waterville's UEX rider and the date upon which the audit report must be filed. The UEX audit report reviews the audit period January 1, 2009, through December 31, 2010 (Staff Ex. 2). On February 23, 2011, Staff filed its audit reports in the GCR and UEX dockets. As part of its audit reports, Staff submitted a certificate of accountability attesting to the accuracy of the data pertaining to the period of the GCR and UEX audits.

The public hearing was held on May 10, 2011, at the offices of the Commission. No public witnesses testified at the hearing. At the hearing, Staff submitted the stipulation and recommendation (stipulation or Jt. Ex. 1), which was filed on March 29, 2011, and signed by Waterville and Staff, which, if adopted, will resolve all of the issues in this case. Also, the proof of publication of notice of the hearing, which was filed on May 10, 2011, was submitted at the hearing as Company Ex. 1.

II. AUDIT REPORTS

A. General

Waterville provides natural gas utility service to approximately 5,829 customers. Waterville is subject to the Commission's jurisdiction with regard to approximately 3,726 of those customers. The remaining nonjurisdictional customers are served under ordinance rates negotiated with the Village of Waterville. As of December 2010, Waterville served approximately 5,593 residential customers and 236 commercial customers in Lucas and Wood counties, Ohio. Waterville provided transportation service to an asphalt company for the first three months of the GCR audit period. Since the last GCR audit, Waterville's customer base has grown by three percent. (Staff Ex. 1 at 3.)

B. GCR Audit Report

In its GCR audit report, Staff reviewed Waterville's calculations of its expected gas cost (EGC) for the audit period. The EGC mechanism attempts to match future gas

revenues for the upcoming quarter with the anticipated cost to procure gas supplies. It is calculated by extending 12-month historical purchase volumes from each supplier by the rate that is expected to be in effect during the upcoming period. The cost for each supplier is summed and the total is divided by 12-month historical sales to develop an EGC rate to be applied to customer bills. (Staff Ex. 1 at 4.)

In the Staff's review of the company's EGC calculations it considered supply sources, purchase volumes, and sales volumes. Staff notes that Waterville entered into a 15-month gas sales agreement with Atmos Energy Marketing, LLC (Atmos) in May of 2006. The term for the agreement extended from January 1, 2007 through April 1, 2008. The parties amended the agreement in January 2008, to extend the term of the agreement through March 2015. The agreement provides that Waterville assign its general transportation service (GTS) on Columbia Gas Transmission (CGT) to Atmos. Atmos, in turn, procures gas at market prices and uses the GTS capacity along with other available capacity to deliver all of Waterville's sales requirements. Atmos invoices Waterville for the commodity purchases plus shrink, Columbia Gulf Transmission (Columbia Gulf) demand and volumetric charges, GTS volumetric charges, management fees, and a transportation credit for all non-GTS deliveries. (Staff Ex. 1 at 4.)

In its review of purchase and sales volumes, Staff notes that Atmos invoices detail volumes purchased on behalf of Waterville and takes into account shrink on Columbia Gulf and CGT. In addition to detailing storage injections and withdrawals, the Atmos invoices include a monthly balance of gas currently in storage. Staff reviewed the Atmos invoices and verified that purchase volumes and costs were correct for each month of the audit period and were properly included for recovery through the GCR. (Staff Ex. 1 at 4.)

Costs associated with volumes injected into storage are not included for recovery at the time of injection. Instead, the volumes and their associated costs are entered into a weighted average cost of gas (WACOG) calculation and the resulting price is recoverable through the GCR when volumes are withdrawn from storage. Staff verifies that the WACOG was accurately calculated each month and that storage withdrawals were priced according to the WACOG. (Staff Ex. 1 at 5.)

Waterville's monthly billing registers detailed both jurisdictional and nonjurisdictional sales volumes. The GCR mechanism is applied to all sales. Staff verifies that sales volumes included in GCR filings equaled those detailed in the monthly billing registers. (Staff Ex. 1 at 5.)

In its report, Staff recalls that, in Case No. 07-217-GA-GCR, it recommended that Waterville place into effect an EGC calculation that incorporates the commodity pricing provisions contained within its service agreement with its new procurement manager and

the associated transportation services expected to be used to move gas to its city gate, along with costs that can be reasonably anticipated for the month in which that EGC is in effect. (Staff Ex. 1 at 5.)

As part of its EGC review, Staff compared the company's EGC filings with market pricing, cost per unit calculations, and sales volumes. Staff also examined the differences between the New York Mercantile Exchange, EGC, and the average cost per unit as contained in the company's actual adjustment calculation. Staff summarized its findings in a table. (Staff Ex 1 at 5-6.)

In the prior audit, in Case No. 09-217-GA-GCR (09-217), Staff made several recommendations to reduce Waterville's over-collection from its customers. For the years ending July 2007 and July 2008, Waterville collected \$616,837 and \$413,890, respectively. According to the Staff's calculations, these amounts have continued to decrease. From this, Staff concludes that Waterville is making progress in reducing over-collection from customers. Overall, Staff recommends that Waterville continue to refine its EGC calculation so that it may continue reducing over-collection from customers. (Staff Ex 1 at 5.)

C. UEX Audit Report

In its UEX audit report, Staff noted that this is the second audit of the company's UEX rider. In its initial audit in 09-217, Staff made five recommendations that the Commission adopted. Along with its examination of standard UEX audit requirements, Staff has reviewed the implementation of its prior recommendations. (Staff Ex. 2.)

First, Staff verified the company's write-offs as shown on its annual balance reconciliations for 2009 and 2010. Waterville recorded its write-offs in its uncollectible accounts expense rider detail summaries. Staff reviewed the summaries and discovered that Waterville wrote off 27 accounts representing 23 customers. Of all written-off accounts, three were written off as a result of bankruptcy. The remainder were written off because the customers moved from the Waterville service area. Of these accounts, seven customers made subsequent payments and six customers paid in full. (Staff Ex. 2.)

Completing its audit, Staff selected random customers from the summaries and conducted a detailed examination of their billing histories. With information from the billing histories, Staff tied the ending account balances to the summaries. Staff accounted for the dates of final payments and the application of each customer's deposit towards the unpaid balance. Staff also traced subsequent customer payments to their accounts to ensure that their balances were reduced by the amount of their payments. (Staff Ex. 2.)

In its UEX audit report, Staff examined Waterville's write-offs for 2009 and 2010 and enumerated its findings. Staff found that all written-off account balances tied to the final account balances in customers' billing histories. Consistent with a prior audit recommendation, Staff found that Waterville wrote off the customers' account balances at least 60 days after a customer's final payment.

In the previous audit, Staff recommended that Waterville investigate using collection agencies. Upon examining Waterville's correspondence with collection agencies, Staff found that the collection agencies had little or no interest in working with a utility with such small collectibles. Staff, therefore, concluded that the company has satisfactorily addressed Staff's recommendation. In Case No. 09-981-GA-UEX, Waterville wrote and filed credit and collection policies. Staff found that the company properly implemented the credit and collection policies. Concluding a review of the recommendations, Staff found that Waterville includes short term carrying cost on its over-collected UEX balances. Staff noted that this is consistent with a prior audit recommendation. For the next audit period, Staff has no recommendations. (Staff Ex. 2.)

III. STIPULATION

On March 29, 2011, the parties filed a stipulation that, if adopted, would resolve all of the issues in this proceeding. The stipulation has been submitted, subject to the condition that it be adopted by the Commission without material modification and, if not, either party may withdraw from the agreement. (Jt. Ex. 1 at 3.) The stipulation includes, *inter alia*, the following provisions:

- (1) Waterville's GCR rates were accurately calculated by Waterville during the GCR audit period, in accordance with the provisions of Chapter 4901:1-14, O.A.C.
- (2) All findings and recommendations contained in the GCR audit report are reasonable and should be adopted, and Waterville should continue to refine its EGC calculation so as to continue reducing over-collections from its customers and Waterville should continue its practice of accurately calculating its GCR rate.
- (3) All findings contained in the uncollectible audit are reasonable and should be adopted, in that the company has properly implemented the recommendations adopted by the Commission in 09-217 and no recommendations were made in this case.

- (4) In satisfaction of the requirements of Section 4905.302(C), Revised Code, and Rule 4901:1-14, O.A.C., Waterville caused notice to be published in newspapers of general circulation throughout Waterville's service territory.

(Jt. Ex. 1 at 3-4.)

IV. CONCLUSION

Rule 4901-1-30, O.A.C., authorizes parties to Commission proceedings to enter into a stipulation. Although not binding upon the Commission, the terms of such an agreement 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 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 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, 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.

Based on our three-pronged standard of review, we find the first criterion, that the process involved serious bargaining by knowledgeable, capable parties, is clearly met. Waterville and Staff have been involved in previous cases before the Commission, including a number of GCR cases. Moreover, these parties have provided helpful information to the Commission in cases regarding fuel-related policies and practices. The settlement agreement also meets the second criterion. As a package, the stipulation advances the public interest by attempting to resolve all of the issues related to the review of Waterville's GCR and fuel-related policies and practices, as well as the UEX rider, during the audit periods. Moreover, the stipulation meets the third criterion because it does not violate any important regulatory principle or practice. Rather, the stipulation includes terms designed to enhance Waterville's ability to provide service to its customers, thereby reducing gas costs and GCR rates. Staff witness Steve Puican, Chief of the Gas Section in the Utilities Department, testified that the stipulation satisfies all three prongs of the standard of review employed by the Commission in considering the stipulation (Staff Ex. 1 at 8-9). Upon review of the stipulation in these proceedings, the Commission concludes that the terms and conditions contained therein represent a reasonable resolution of the issues in these cases. Accordingly, the stipulation should be adopted in its entirety.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Waterville is a natural gas company within the meaning of Section 4905.03(A)(5), Revised Code, and, as such, is a public utility subject to the supervision and jurisdiction of this Commission.
- (2) Pursuant to Section 4905.302, Revised Code, and Rule 4901:1-14-08, O.A.C., the GCR docket was initiated by the Commission's entry of January 21, 2009, to review the company's GCR rates.
- (3) A GCR audit of the period February 1, 2009 through January 31, 2011, was performed by the Staff of the Commission in compliance with Section 4905.302, Revised Code, and Rule 4901:1-14-07, O.A.C.
- (4) Staff completed an audit of Waterville's UEX rider for the period January 1, 2009 through December 31, 2010.
- (5) The GCR and UEX audit reports were filed on February 23, 2011.

- (6) Pursuant to Section 4905.302(C), Revised Code, and Rule 4901:1-14-08(A), O.A.C., a public hearing was held on May 10, 2011.
- (7) The company published notice of the hearing in compliance with Rule 4901:1-14-08(C), O.A.C.
- (8) The parties submitted a stipulation in these dockets intending to resolve all outstanding issues in these proceedings.
- (9) The stipulation submitted by the parties in these cases represents a just and reasonable resolution of the issues in these proceedings and should be adopted.
- (10) To the extent noted in the audit report, the company's determination of its GCR rates for the audit period was in accordance with the financial and procedural aspects of Chapter 4901:1-14, O.A.C., and such rates were properly applied to customer bills. Accordingly, the gas costs passed through the company's GCR clause for the audit period were fair, just, and reasonable.
- (11) Waterville accurately calculated the UEX rider rates during the UEX audit period.

It is, therefore,

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

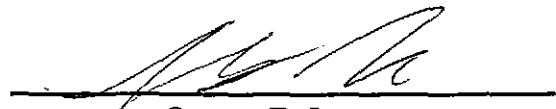
ORDERED, That the auditor selected to conduct the company's next GCR audit review Waterville's actions in carrying out the terms of the stipulation. It is, further,

ORDERED, That a copy of this opinion and order be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Paul A. Centolella


Steven D. Lesser

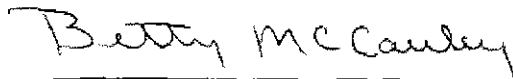

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JUL 15 2011


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