

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Regulation of the )  
Purchased Gas Adjustment Clauses ) Case No. 11-210-GA-GCR  
Contained Within the Rate Schedules of )  
Glenwood Energy of Oxford, Inc. )

In the Matter of the Regulation of the )  
Uncollectible Expense Rider of Glenwood ) Case No. 11-310-GA-UEX  
Energy of Oxford, Inc. )

OPINION AND ORDER

The Public Utilities Commission of Ohio (Commission), having considered the evidence, relevant provisions of the Ohio Revised Code and Ohio Administrative Code, and the stipulation and recommendation presented by the parties, and being otherwise fully advised, hereby issues its Opinion and Order.

APPEARANCES:

Vorys, Sater, Seymour & Pease, LLP, by Stephen M. Howard and M. Howard Petricoff, 52 East Gay Street, Columbus, Ohio 43216-1008, on behalf of Glenwood Energy of Oxford, Inc.

Mike DeWine, Ohio Attorney General, by William L. Wright, Section Chief, and Steven L. Beeler, Assistant Attorney General, 180 East Broad Street, 6th Floor, Columbus, Ohio 43215-3793, on behalf of Staff of the Commission.

OPINION:

I. INTRODUCTION

Glenwood Energy of Oxford, Inc. (Glenwood or company) is a natural gas company as defined by Section 4905.03, Revised Code, and a public utility as set forth in Section 4905.02, Revised Code. Glenwood is also a gas company within the meaning of Section 4905.302(C), 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 set forth in Chapter 4901:1-14, Ohio Administrative Code (O.A.C.), separate the jurisdictional cost of gas from all other costs incurred by the 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 each 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, the Commission adopted Rule 4901:1-14-07, O.A.C., which identifies how periodic financial and management/performance audits of gas or natural gas companies shall be conducted. Rule 4901:1-14-08, O.A.C., requires the Commission to hold a public hearing at least 60 days after the filing of the required audit reports. Rule 4901:1-14-08(C), O.A.C., specifies that notice of the hearing be published in one of three ways, at least 15 days, but not more than 30 days, prior to the date of the scheduled hearing.

By Entry issued September 30, 2009, the Commission approved Glenwood's request for an initial UEX rider rate of \$0.08 per thousand cubic feet (Mcf). *In the Matter of the Application of Glenwood Energy of Oxford, Inc. for Approval of its Initial Uncollectible Expense Rider Rate*, Case No. 09-439-GA-UEx (September 30, 2009). The Commission subsequently authorized an increase in Glenwood's UEX rider to \$0.26 per Mcf. *In the Matter of the Application of Glenwood Energy of Oxford, Inc. for Approval of an Adjustment to Its Uncollectible Expense Rider Rate*, Case No. 10-899-GA-UEx (September 22, 2010). On May 26, 2011, Glenwood submitted its UEX balance reconciliation statement in Case No. 11-310-GA-UEx for calendar year 2010.

In order to review the operation of the purchased gas adjustment clause, the gas purchasing practices and policies of Glenwood, as well as Glenwood's UEX recovery mechanism, the Commission issued an entry in Case Nos. 11-210-GA-GCR and 11-310-GA-UEx on January 19, 2011, directing the Commission's Staff to conduct an audit of Glenwood's GCR rates for the period of July 1, 2009 through March 31, 2011, and UEX rider for the period of January 1, 2009 through December 31, 2010. Rule 4901:1-14-07(C), O.A.C., also requires the independent auditor to submit a certificate of accountability attesting to the accuracy of financial data pertaining to the period of GCR activity. Further, the January 19, 2011, entry established the due date for Staff's audit reports, scheduled the hearing in this matter to commence on July 19, 2011, and directed Glenwood to publish notice of the hearing. Thereafter, the attorney examiner continued the hearing until September 1, 2011, at Staff's request. Staff filed its audit report on Glenwood's GCR rates and audit report on Glenwood's UEX rider on June 29, 2011, and June 30, 2011, respectively.

Notice was properly provided by bill insert in accordance with the rule and the proof of such notice was filed on August 26, 2011 (Glenwood Ex. 1). Glenwood and Staff filed a Joint Stipulation and Recommendation (stipulation) on August 22, 2011, resolving

all of the issues in this matter (Joint Ex. 1). In the stipulation, Glenwood agreed to all of the recommendations set forth in the audit reports. The hearing was held, as rescheduled, on September 1, 2011. No public witnesses appeared to testify at the September 1, 2011, hearing. At the hearing, Staff also offered as evidence the testimony of Roger Sarver in support of the stipulation.

## II. GCR AUDIT REPORT

Pursuant to the Commission entry issued January 19, 2011, a certificate of accountability, attested to by Staff, was submitted as part of the GCR audit report. By its certificate of accountability, Staff states that it examined Glenwood's GCR rates for July 1, 2009 through June 30, 2011, for conformity with all procedural aspects of the uniform purchased gas adjustment clause as set forth in Chapter 4901:1-14, O.A.C., and related appendices, as well as the Commission entry issued January 19, 2011. Staff notes that, unless otherwise noted in the audit report, Glenwood has accurately calculated its GCR rates for the period specified in accordance with the uniform purchased gas adjustment clause as set forth in Chapter 4901:1-14, O.A.C., and related appendices. (Staff Ex. 1.)

### A. General

Glenwood purchased, at a public auction, certain assets of a company known as Oxford Natural Gas Company (Oxford) on August 8, 2007. On September 18, 2007, in Case No. 07-1025-GA-ATR, Glenwood filed for Commission approval of the purchase of Oxford's assets and the Commission granted approval on October 10, 2007. Glenwood is wholly-owned by the Keith G. Smith Trust. Glenwood currently serves portions of the city of Oxford and portions of Butler County. Glenwood provides natural gas utility service to approximately 4,254 customers during the school year of Miami University (September through May), and approximately 3,330 customers during the summer (June through August). Glenwood's gas supply is purchased from Atmos Energy Marketing (Atmos) and delivered by Texas Eastern Transmission (Texas Eastern), Columbia Gas Transmission Corporation (TCO), and Duke Energy Ohio (Duke). (Staff Ex. 1 at 3-4.)

### B. Expected Gas Cost

Staff reviewed Glenwood's calculation of its expected gas cost (EGC) for the audit period. The EGC mechanism attempts to match future gas revenues for the upcoming quarter with anticipated cost to procure gas supplies. Staff states that it reviewed Glenwood's billing register summaries and its customer billing journals from July 2009 through May 2011 for sales volumes verifications. Staff further states that it reviewed Glenwood's billing adjustments from two gas light customers, Oxford Green and Forest Ridge, and noted no errors in sales volumes during the audit period. (Staff Ex. 1 at 4.)

Staff states that, at the beginning of the audit period, Glenwood provided transportation service to four customers through special contracts and tariffs through which it delivered nominated volumes from its city gate to the customers' facilities. Staff notes that any differences between what was nominated and what was delivered were recognized as an imbalance and the transportation customers paid fixed and volumetric charges on any imbalance with a portion of these fees being credited to Glenwood's GCR. Staff further notes that, during the audit period, one of the transportation customers was left without gas due to the actions of that customer's supplier and that Glenwood determined the customer was not receiving any nomination thereafter, and assessed the customer a monthly fuel charge, essentially making the customer a GCR customer. (Staff Ex. 1 at 5.)

Staff concludes that Glenwood accurately calculated its purchase and sales volumes, as well as its transportation imbalance cash-outs billed subsequent to the audit period. Further, Staff finds that, for the transportation customer without a supplier, Glenwood's monthly fuel charge assessed should have recognized that the gas being consumed by this transportation customer was the same gas being consumed by Glenwood's GCR customers; thus, the assessed fuel charge should have been the GCR rate. Consequently, Staff recommends that Glenwood bill the transportation customer, who is currently without a supplier, the GCR rate until that customer finds a new supplier or becomes a GCR customer. Staff further recommends that the auditor in Glenwood's 2013 GCR audit verify that the proceeds of any transportation customers' cash-outs are credited to Glenwood's GCR. (Staff Ex. 1 at 5.)

### C. Actual Adjustment

The actual adjustment (AA) reconciles the monthly cost of purchased gas with the EGC billing rate. The AA is calculated by dividing the total cost of gas purchases for each month of the three-month reporting quarter by total sales for those respective months. This calculation provides the cost incurred by the company for procuring each one thousand cubic feet (Mcf) of gas sold for the month, which is sometimes referred to as the unit book cost of gas. The difference between the unit cost of gas for the month and the EGC is multiplied by the jurisdictional sales for the month, in order to identify the total under- or overrecoveries of gas costs. The monthly under- or overrecoveries are summed and divided by the 12-month historic jurisdictional sales to develop an AA rate to be included in the GCR for four quarters. Errors in the AA calculation can result from the use of incorrect purchased gas costs or sales volumes, and/or the wrong EGC rate. (Staff Ex. 1 at 6.)

Staff states that Glenwood included the wrong EGC in its May 2010 calculation. Staff further notes that one transportation customers' credits were not being credited to Glenwood's GCR during the entire audit period. Finally, Staff reports that the credits calculation for two other transportation customers were different than Staff's calculation for one month of the audit period. Specifically, Staff notes that, as stated in its discussion of expected gas cost, the fuel charges billed to the transportation customers should have been the GCR rate and that the difference between Staff-calculated AA and the company-filed AA for the audit period is \$37,634. Staff states that these errors are not self-correcting through the GCR mechanism. Therefore, Staff recommends that the Commission order a reconciliation adjustment of \$37,634 in the customers' favor to account for the differences between Staff's calculated AA and the company-filed AA. (Staff Ex. 1 at 6.)

#### D. Refund and Reconciliation Adjustment

The refund and reconciliation adjustment (RA) is used to pass through the jurisdictional portion of refunds received from gas suppliers and adjustments ordered by the Commission. Annual interest of 10 percent is applied to the net jurisdictional amount of the RA, which is then divided by 12 months of historic sales volumes to develop a volumetric rate to be included in the GCR calculation for four quarters. Staff reviewed the company's RA calculations during the audit period and found that Glenwood did complete the RA of \$18,227 ordered by the Commission in *In the Matter of the Regulation of the Purchased Gas Adjustment Clause Contained Within the Rate Schedules of Glenwood Energy of Oxford, Inc.*, Case No. 09-210-GA-GCR, Opinion and Order (November 4, 2009). According to Staff, Glenwood also placed in its RA a refund from TCO of \$3,268, which was properly included in rates. Staff makes no recommendations as to the RA for the audit period. (Staff Ex. 1 at 11.)

#### E. Balance Adjustment

The balance adjustment (BA) mechanism corrects for under- or overrecoveries of previously calculated AA's and RA's. The BA is calculated by subtracting the product of each respective AA and RA and the sales to which those rates were applied from the dollar amounts of the respective AA or RA previously included in the GCR and used to generate those adjustment rates. Since those adjustment rates were derived by dividing the dollar amounts by historic sales, the BA calculation depicts the differences in revenues generated for each of these adjustment mechanisms using actual versus historical sales. The sum of the differences for the AA and RA calculation is the total BA that is placed into the AA calculation. (Staff Ex. 1 at 12.)

Errors detected in the BA generally are the result of incorrectly reported sales volumes, but also may be due to selecting an incorrect previous AA or RA rate for the

purpose of calculating a given quarter's BA. In this case, Staff reports that it found no differences between Glenwood's BA calculation and Staff's BA calculation. Consequently, Staff states that it has no recommendations in this area of the audit. (Staff Ex. 1 at 12.)

#### F. Unaccounted-For-Gas

Unaccounted-for-gas (UFG) is the difference between gas purchases and sales, expressed as a percentage of purchases. It is calculated on a 12-month basis, generally ending in one of the summer months so as to minimize the effects of unbilled volumes on the calculation. Rule 4901:1-14-08(F)(3), O.A.C., specifies that the Commission may adjust the Company's future GCR rates as a result of UFG above a reasonable level, presumed to be no more than five percent for the audit period. (Staff Ex. 1 at 13.)

Staff states that, according to its analysis, Glenwood's UFG levels during the 12 months ending September 2009, and September 2010 were negative 2.75 percent and negative 1.25 percent, respectively. Staff states that the negative UFG level indicates that there are measurement differences between Duke's metering, and Glenwood's sales and transportation customers' metering devices. However, Staff notes that Rule 4901:1-14-08(F)(3), O.A.C., allows for up to five percent UFG. Consequently, Staff states that it has no recommendations in this area of the audit. (Staff Ex. 1 at 13.)

#### G. Customer Billing

Staff states that it reviewed and verified the GCR and customer service base rate charges applied to customer bills during the audit period. In order to ensure billing accuracy, Staff reports that it recalculated a sampling of the bills rendered for each month of the audit period. Staff concludes that Glenwood accurately billed its customers per the GCR rates filed monthly with the Commission. Therefore, Staff reports that it has no recommendations in this area of the audit. (Staff Ex. 1 at 14.)

#### H. Management and Operations

Glenwood is wholly-owned by the Keith G. Smith Trust. Keith Smith is the President and Richard Perkins is the Chief Financial Officer and Treasurer. John Stenger is a consultant hired to run the day-to-day operations and Kristy Smith oversees the accounting and customer service functions. (Staff Ex. 1 at 15.)

Staff reports that Glenwood's supply is purchased from Atmos and delivered on Texas Eastern to TCO, which then delivers onto Duke's system. Staff further reports that Duke transports Glenwood's gas under a transportation agreement executed in 1994, which is scheduled to expire in 2012. Staff states that, when the transportation agreement

expires, Glenwood will have the opportunity to renegotiate its service or purchase the pipeline connecting its city gate to TCO. Staff makes no recommendations as to the company's management and operations for the audit period. (Staff Ex. 1 at 15.)

### III. UEx AUDIT REPORT

Staff states that it reviewed Glenwood's UEx recovery mechanism for the period of 2009 through 2010, and notes that it made several adjustments to Glenwood's bad debt write-off amounts to properly reflect current accounting procedures. Staff represents that these adjustments do not affect the rate of the UEx rider and that Glenwood appropriately calculated the UEx rider rate. (Staff Ex. 2 at 1-2.)

Staff recommends that Glenwood adjust its 2010 ending bad debt write-off balance to \$102,911.75. Staff further recommends that the 2010 ending balance of \$102,911.75 be the starting point for calendar year 2011 and that Glenwood incorporate this amount when calculating future UEx rider costs. Finally, Staff recommends that Glenwood receive Commission approval prior to any change in its UEx rate. (Staff Ex. 2 at 2.)

### IV. STIPULATION

As previously stated, a stipulation (Joint Ex.1), signed by Glenwood and Staff, was filed in this docket on August 22, 2011. The stipulation is intended by the signatory parties to resolve all outstanding issues in this proceeding. Specifically, the stipulation provides that the findings and recommendations of Staff set forth in the audit report are reasonable and should be adopted by the Commission. (Joint Ex. 1 at 1.)

### V. 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. See *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 1992-Ohio-122, citing *Akron v. Pub. Util. Comm.* (1978), 55 Ohio St.2d 155, 157. 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., *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 31, 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, 561, 1994-Ohio-435, citing *Consumers' Counsel*, 64 Ohio St.3d 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.*

At the hearing on September 1, 2011, Roger Sarver, an Energy Specialist with 21 years of Commission experience relating to the GCR mechanism, testified that the stipulation meets the Commission's three-part test. With respect to the first part, Mr. Sarver explains that the stipulation was the product of a process in which all parties were represented by experienced counsel and technical experts, and that the negotiations and stipulation represent a fair and reasonable compromise of issues raised by parties with diverse interests. Mr. Sarver also testified that the stipulation, considered as a package, benefits ratepayers and the public interest. Mr. Sarver explains that the stipulation adopts *Staff's findings for the GCR and UEX audits and benefits ratepayers by refunding to customers over \$37,000*. Finally, Mr. Sarver asserts that the stipulation does not violate any important regulatory principle. (Tr. at 6-12.)

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. The parties to these investigations have been involved in many GCR cases before the Commission. The stipulation filed in this case also meets the second criterion. As a package, the stipulation advances the public interest by resolving the issues raised by the audit of the company's gas costs and UEX rider. Finally, the stipulation does not violate any important regulatory principle or practice. See *Consumers' Counsel*, 64 Ohio St.3d at 126. In the Commission's consideration of this matter, we believe that Glenwood accurately determined and billed the GCR rates during the audit period and accurately



applied those base rates to customers' bills during the audited periods, except for those instances previously discussed. Further, we believe that Glenwood accurately calculated the UEX rider rates during the UEX audit period.

After reviewing the stipulation and the evidence of record, the Commission concludes that the terms of the stipulation represent a reasonable resolution of all aspects of this case. Therefore, the stipulation filed on August 22, 2011, should be adopted in its entirety.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

- (1) Glenwood is a natural gas company within the meaning of Section 4905.03, Revised Code, and, as such, is a public utility subject to the ongoing supervision and jurisdiction of the Commission.
- (2) Section 4905.302, Revised Code, and Rule 4901:1-14-07, O.A.C., require 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) This proceeding was initiated by Commission entry issued January 19, 2011, to review the gas procurement practices of Glenwood, the operation of its purchased gas adjustment clause, and Glenwood's UEX rider.
- (4) Staff conducted GCR and UEX audits of Glenwood. Results of the audits and a certificate of accountability were filed with the Commission on June 29, 2011, and June 30, 2011.
- (5) The financial audit conducted by Staff was performed in compliance with Section 4905.302, Revised Code, and Chapter 4901:1-14, O.A.C.
- (6) Staff determined that Glenwood has fairly determined the GCR rates in accordance with the uniform purchased gas adjustment clause, as set forth in Chapter 4901:1-14, O.A.C., and related appendices, except as specifically noted in Section II of this Opinion and Order.

- (7) Staff determined that Glenwood appropriately calculated its UEX rider rate.
- (8) Notice of the hearing was distributed via bill insert to customers and proof of notice was filed with the Commission on August 26, 2011.
- (9) The public hearing on this matter was held on September 1, 2011. No public witnesses appeared to testify at the September 1, 2011, hearing.
- (10) At the hearing, the stipulation was submitted, intending to resolve all issues in this case.
- (11) The stipulation meets the criteria used by the Commission to evaluate stipulations, *is reasonable, and should be adopted.*
- (12) Except as otherwise noted in the audit report, Glenwood accurately determined its GCR rates for the audit period and applied the GCR rates to customer bills in accordance with the financial and procedural aspects of Chapter 4901:1-14, O.A.C. Accordingly, the gas costs passed through the company's GCR rate for the audit period were fair, just, and reasonable, except to the extent noted in this decision.
- (13) Glenwood accurately calculated the UEX rider rates during the UEX audit period.

ORDER:

It is, therefore,

ORDERED, That the stipulation filed on August 22, 2011, by Staff and Glenwood, be adopted. It is, further,

ORDERED, That Glenwood comply with the recommendations agreed to in the stipulation and outlined in Sections II and III of this Opinion and Order. It is, further,

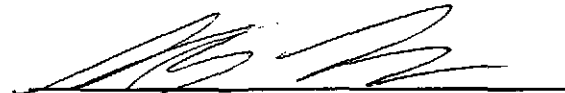
ORDERED, That the next auditor review Glenwood's compliance with the stipulation and the terms of this Opinion and Order. It is, further,

ORDERED, That a copy of this Opinion and Order be served upon Glenwood and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

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Paul A. Centolella

  
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Steven D. Lesser

  
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Andre T. Porter

  
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Cheryl L. Roberto

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Entered in the Journal  
**OCT 18 2011**

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Betty McCauley  
Secretary