

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) Case No. 13-207-GA-GCR
Eastern Natural Gas Company and Related)
Matters.)

In the Matter of the Regulation of the)
Purchased Gas Adjustment Clauses)
Contained Within the Rate Schedules of) Case No. 13-214-GA-GCR
Pike Natural Gas Company and Related)
Matters.)

In the Matter of the Regulation of the)
Purchased Gas Adjustment Clauses)
Contained Within the Rate Schedules of) Case No. 13-215-GA-GCR
Southeastern Natural Gas Company and)
Related Matters.)

In the Matter of the Application of Eastern)
Natural Gas Company for Approval of an)
Adjustment to its Uncollectible Expense) Case No. 13-307-GA-UEx
Rider Rate.)

In the Matter of the Application of Pike)
Natural Gas Company for Approval of an)
Adjustment to its Uncollectible Expense) Case No. 13-314-GA-UEx
Rider Rate.)

OPINION AND ORDER

The Commission, having considered the evidence and the Stipulation and Recommendation presented by the parties, and being otherwise fully advised, hereby issues its Opinion and Order.

APPEARANCES:

Vorys, Sater, Seymour and Pease LLP, by Ms. Gretchen L. Petrucci, 52 East Gay Street, Columbus, Ohio 43216-1008, on behalf of Eastern Natural Gas Company, Pike Natural Gas Company, and Southeastern Natural Gas Company.

Mike DeWine, Ohio Attorney General, by Messrs. Thomas G. Lindgren and Steven Beeler, Assistant Attorneys General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of the Staff of the Commission.

OPINION:

I. Summary of the Proceedings

Eastern Natural Gas Company (Eastern), Pike Natural Gas Company (Pike), and Southeastern Natural Gas Company (Southeastern) (collectively, the companies) are each a gas company and a natural gas company as defined in R.C. 4905.03(A) and each is a public utility under R.C. 4905.02. Each company is also a gas company within the meaning of R.C. 4905.302(C), pursuant to which this 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 Ohio Adm.Code 4901:1-14, 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.

R.C. 4905.302 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 a 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 Ohio Adm.Code 4901:1-14-07, which identifies how periodic financial audits of gas or natural gas companies shall be conducted. Ohio Adm.Code 4901:1-14-08(A) requires the Commission to hold a public hearing at least 60 days after the filing of each required audit report. Ohio Adm.Code 4901:1-14-08(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.

On January 30, 2013, the Commission initiated these proceedings, established the financial audit periods, established the date upon which the financial audit reports must be filed, and directed the Commission's Staff (Staff) to conduct the audits required under Ohio Adm.Code 4901:1-14-07(B). The Commission also scheduled a hearing date of November 12, 2013, for these proceedings and directed the companies to publish notice of the hearing.

On September 12, 2013, Staff filed its financial audit report for these companies (GCR Staff Report). The audit covers the period July 1, 2011, through June 30, 2013. (Staff Ex. 1.) On September 6, 2013, Staff filed its audit of Eastern and Pike's uncollectible expense (UEX) mechanisms for the period January 2011, through December 2012 (Staff Ex. 2).

On November 5, 2013, Pike filed a motion requesting that the Commission schedule an additional day of hearing and a request for expedited ruling. Pike explained that problems with its billing system prevented it from sending timely notice of the hearing in its bills. As a remedy, Pike proposed an additional day of hearing to allow it an opportunity to provide notice of the hearing to customers. By Entry issued November 6, 2013, the attorney examiner granted Pike's motion. The attorney examiner ordered that the November 12, 2013 hearing proceed as scheduled. Customers would be allowed to offer testimony at the hearing. The hearing would then be continued to November 22, 2013. At the November 22, 2013 hearing, the companies would present their witnesses, and customers who did not have an opportunity to testify on November 12, 2013, would be granted the opportunity to offer testimony. The attorney examiner ordered Pike to publish notice as soon as practicable to meet the statutory requirements for notice.

On November 12, 2013, as reconvened on November 22, 2013, the public hearing was conducted at the offices of the Commission. No public witnesses appeared to offer testimony on either date. Staff and counsel for the companies stated, at the hearing on November 22, 2013, that they had reached an agreement resulting in a joint stipulation and recommendation (GCR Stipulation) (Jt. Ex. 1), which was filed on October 28, 2013.

At the hearing on November 22, 2013, the companies submitted exhibits, in the form of affidavits and attachments, to establish proof of publication of the hearing. The affidavits for Eastern and Southeastern state that notice of the November 12, 2013 hearing was lawfully published by bill message. (Co. Ex. 2, Attachments A and C.) Because publication did not take place in time for the November 12, 2013 hearing, Pike customers were given notice of the November 22, 2013 hearing by bill message (Co. Ex. 2, Attachment B).

On October 31, 2013, a joint stipulation and recommendation was filed in the UEX dockets, signed by Pike, Eastern, and Staff (UEX Stipulation) (Jt. Ex. 2).

II. Financial Audit

Prior to the Commission issuing a Finding and Order on December 12, 2012, in *In re Eastern Natural Gas, et al.*, Case No. 12-2792-GA-UNC (*Transfer Case*), the companies were wholly-owned subsidiaries of Clearfield Ohio Holding, Inc. (COHI). In the *Transfer Case*, the Commission approved the transfer of common stock from COHI to Utility Pipeline Ltd. (UPL). The companies are now wholly-owned subsidiaries of UPL. UPL is a natural gas distribution management company that is headquartered in Canton, Ohio. In the GCR Staff Report, Staff noted that its report covers the audit period July 1, 2011, through June 30, 2013. Because the companies were under the management of COHI for most of the audit period, Staff emphasizes that its recommendations reflect the problems in the GCR

process under the management of COHI and do not suggest future operations under UPL. (Staff Ex. 1 at-5.)

Eastern provides utility sales service to approximately 6,491 residential and commercial customers. Eastern also provides transportation service to four industrial customers. The number of sales customers, residential and commercial, has increased by 51 since the 2011 audit. The number of transportation customers has not changed. (Staff Ex. 1 at-5.)

Eastern's service area consists of five noncontiguous regions located in the eastern portions of Ashtabula and Trumbull counties. Three of its regions were once part of National Fuel Gas Supply (National Fuel). Eastern still receives nearly all of its system requirements through National Fuel. Approximately 3.46 percent of its supplies are delivered directly into its system by local producers. (Staff Ex. 1 at--5.)

Pike's system is separated into two service areas: Waverly and Hillsboro (Pike/Waverly and Pike/Hillsboro, respectively). Pike/Hillsboro serves approximately 3,639 residential, commercial, and industrial customers in Highland and Clinton counties. It obtains its gas supply from Columbia Gas Transmission Corporation (TCO). Pike/Waverly serves approximately 3,411 residential, commercial, and industrial customers in Pike, Ross, and Jackson counties. Tennessee Gas Pipeline (Tennessee Gas) provides its gas supply. Combined, Pike/Hillsboro and Pike/Waverly provide transportation service to 5 customers. (Staff Ex. 1 at-5.)

Southeastern's service area is located primarily in the southeastern portion of Ohio. A few customers are in Delaware and Union counties. Southeastern serves the majority of its customers off the Southeastern pipeline, which is connected to TCO and Tennessee Gas. Delaware and Union counties' customers are served under a transportation agreement with Columbia Gas of Ohio, Inc. (Columbia). At the end of 2012, Southeastern was serving 1,365 residential customers and 104 commercial customers. (Staff Ex. 1 at 5.)

In its financial review, Staff examined the periodic filings of the companies from July 1, 2011, through June 30, 2013. Except for those instances noted in the audit report, Staff found that the companies accurately calculated their GCR rates for the period stated above, in accordance with the uniform purchased gas adjustment clause, as set forth in Ohio Adm.Code Chapter 4901:1-14 and related appendices. (Staff Ex. 1 at 2.)

A. Expected Gas Cost (EGC)

Staff reviewed the companies' calculation of their EGC and evaluated their supply sources, sales volumes, and purchase volumes. With regard to supply sources, Staff found that Atmos Energy Marketing (Atmos) purchased and nominated almost all of the companies' gas supplies, except for a small amount of local production for Eastern.

Beginning November 2008, Atmos service agreements with the companies were amended from agency agreements to asset management agreements consistent with Federal Energy Regulatory Commission (FERC) order 712. The terms of the asset management agreement provided that companies release their pipeline capacity (firm transportation and storage) to Atmos. As the asset manager, Atmos was responsible for purchasing supplies and nominating the gas to the companies' city gates. The companies paid Atmos the New York Mercantile Exchange monthly closing price plus price add-ons¹ that recovered their respective pipeline capacity costs (fixed and volumetric), dekatherm (Dth) to thousand cubic feet (Mcf) conversion factors, and management fees. The asset management agreement will be in effect through March 2014. (Staff Ex. 1 at 6.)

Staff verified that the monthly sales volume figures for Eastern and Pike matched the monthly sales volume in the companies' customer billing registers. Staff also verified all of the monthly sales volume figures reported in Southeastern's quarterly GCR filings and found significant differences. Staff found that the sales volumes contained in Southeastern's customer billing register and "big gas" sales summaries show additional sales of 13,903 Mcf. The large variation in sales volumes occurred mostly during the months of April 2011, December 2011, and January 2012. (Staff Ex. 1 at 6-7.)

Staff reviewed the purchased volumes for each company. For Pike and Southeastern, Staff found the purchased volumes contained in the invoices for those companies matched those filed in the companies' periodic filings. Staff found, however, that Eastern's purchased volumes did not match those filed. Staff discussed this issue in the actual adjustment (AA) section of the GCR Staff Report. Overall, Staff had no recommendations concerning the companies' EGC. (Staff Ex. 1 at 7.)

B. Actual Adjustment (AA)

Staff examined Eastern's invoices from its suppliers: Atmos and M&B Industrial Gas Development Corporation. Staff found that the majority of invoices matched the costs included for recovery through Eastern's GCR. Staff, however, discovered that the invoices and costs did not match Eastern's purchase volumes and costs for four of the 24 months reviewed. Staff accounted for the errors in its AA calculations and concluded that the differences total \$9,258. The differences are not self-correcting. The positive adjustment represents an increase to Eastern's GCR rates. (Staff Ex. 1 at 8, 11-14.)

Upon examining invoices from Pike/Hillsboro's and Pike/Waverly's supplier, Atmos, Staff found that the companies properly recorded invoiced purchase volumes and costs. Staff did not have a recommendation for either company. (Staff Ex. 1 at 9-10.)

¹ The price add-ons for the companies are similar to the standard service offer (SSO) charges paid by suppliers under the SSO and standard choice offer programs of Columbia, The East Ohio Gas Company d/b/a/Dominion East Ohio, and Vectren Energy Delivery of Ohio, Inc.

Considering Southeastern, Staff pointed out that its AA calculations do not match the company's and that the differences are not self-correcting through the GCR mechanism. Staff recommends a reconciliation adjustment of (\$80,374)²; thus, resulting in a decrease in Southeastern's GCR rates. Staff's recommended RA represents the net difference in the AA calculations of Staff and the company. Staff recommended that the adjustment be applied in the first GCR filing following this Opinion and Order. (Staff Ex. 1 at 10, 15-18.)

C. Refund and Reconciliation Adjustment (RA)

With regard to the RA, Staff found that the Commission-ordered reconciliations from Case Nos. 11-207-GA-GCR, 11-214-GA-GCR, and 11-215-GA-GCR were included in each company's RA and passed back or collected from customers over 12 consecutive months. For Eastern, Staff found that the company included six refunds from Tennessee Gas and the Commission-ordered reconciliations from Case No. 11-207-GA-GCR. (Staff Ex. 1 at 19.)

In its audit of Pike/Hillsboro, Staff found that Pike/Hillsboro received no refunds from its pipeline or supplier. In the prior audit, Pike/Hillsboro was ordered to include in its RA (\$28,090) to correct the differences in the AA, \$136 to correct the differences in the RA, and \$303 to correct the differences in the BA. The net amount to be included was (\$27,651). However, the company included a net amount of (\$27,951), omitting the \$303 BA amount. (Staff Ex. 1 at 19.)

Staff noted that Pike/Waverly refunded, through its RA, six refunds from Tennessee Gas in addition to the Commission-ordered reconciliations from Case No. 11-214-GA-GCR (Staff Ex. 1 at 19).

In its audit of Southeastern, Staff concluded that the company properly included its reconciliation from the previous audit and did not receive any refunds during the audit period (Staff Ex. 1 at 19).

Staff only had recommendations for Pike/Hillsboro. Because Staff and the company's differences in RA calculations are not self-correcting, Staff recommended an RA of \$303 be added to Pike/Hillsboro GCR rates. This amount represents the net difference Staff found in the refund and reconciliation adjustment calculations. Staff further recommended that the adjustment be applied in the first GCR filing following this Opinion and Order. (Staff Ex. 1 at 19-20.)

² Throughout this Order, a number in parentheses indicates a negative number.

D. Balance Adjustment (BA)

In its analysis of Eastern's first quarter RA calculation, Staff found differences that totaled \$20,631. This results in an adjustment in Eastern's favor. (Staff Ex. 1 at 21.)

In its audit of Pike/Hillsboro, Staff found an RA amount of \$(309,122) that was to be included in the BA for the quarter ending March 2011. The company included this RA amount in the quarter ending June 2011, along with an RA of (\$164). Staff included the RA of (\$164) for the quarter ending June 2011. The difference in timing between the inclusions of (\$309,122) in March 2011, by Staff and the company's inclusion of this amount in June 2011, resulted in a difference of \$6. (Staff Ex. 1 at 21.)

In its audit of Pike/Waverly, Staff found an RA amount of (\$47,268) was to be included in the BA for the quarter ending March 2011. The company included this RA amount in the quarter ending June 2011, along with an RA of (\$5,630). Staff included the RA of (\$5,630) for the quarter ending June 2011. The difference in timing between the inclusion of the (\$47,268) in March 2011, by Staff and the inclusion of this amount by the company in June 2011, resulted in a difference of (\$305). The company also included an RA for the quarter ending March 2012, of (\$11,152). Staff included the (\$11,152) in the same period, plus the interest component in the RA for a total of \$(11,765). (Staff Ex. 1 at 21.)

For Southeastern, Staff verified that there were no RAs to be included in the company's BA, but the company's sales volumes were incorrectly recorded in the company's filings for the months of April 2011, December 2011, and January 2012. These differences in sales volumes have an effect on the BA calculation and result in an adjustment of (\$13,806). (Staff Ex. 1 at 22.)

Staff has recommendations for each company. For Eastern, Staff pointed out that the differences between Staff's and the company's BA calculations are not self-correcting through the GCR mechanism. Staff recommended an RA of \$20,631 be applied to Eastern's GCR rates. The adjustment represents the net difference Staff found in the BA calculations. Staff recommended that this adjustment be applied in the first GCR filing following this Opinion and Order. (Staff Ex. 1 at 22, 23-26.)

For its recommendation for Pike/Hillsboro, Staff reported that Staff's and the company's calculations of the BA are not self-correcting through the GCR mechanism. Staff recommended a reconciliation adjustment of \$6 be added to Pike/Hillsboro GCR rates. Staff recommended that the adjustment be applied in the first GCR filing following this Opinion and Order. (Staff Ex. 1 at 22, 27-30.)

Staff's and the company's calculations of the BA for Pike/Waverly are not self-correcting through the GCR mechanism. Staff, therefore, recommended an RA of \$305 be

subtracted from Pike/Waverly GCR rates. This represents the net difference Staff found in the BA calculations. Staff recommended that the adjustment be applied in the first GCR filing following this Opinion and Order. (Staff Ex. 1 at 22, 31-34.)

Staff stated that the differences in BA calculations by Staff and the company are not self-correcting through the GCR mechanism. For correction, Staff recommended an RA of (\$13,806) be applied to Southeastern's GCR rates; thus, reducing the GCR rates. Such adjustment should be applied in the first GCR filing following this Opinion and Order. (Staff Ex. 1 at 22, 35-38.)

E. Customer Billing

Staff also reviewed the companies' customer billing and UFG. Staff made no recommendations concerning the companies' customers' billings. Staff found no discrepancies, other than occasional rounding differences, when reviewing customer bills.

F. Unaccounted-for Gas (UFG)

According to Staff's calculations, the average system UFG rates for Eastern, Pike/Hillsboro, and Southeastern during the audit period were reasonable, as defined by Ohio Adm.Code 4901:1-14-08(F)(3). Staff had no recommendations for these companies. However, the UFG percentage for Pike/Waverly was not within the acceptable level of five percent. Pike/Waverly's UFG for the 24-month period ending July 2012 was 6.09 percent. Staff recommended that the company submit a report to the Commission explaining the reason for its high UFG level prior to the company's November 12, 2013 hearing. After review of the report, Staff stated it may recommend to the Commission that any purchase volumes and the corresponding costs, in excess of five percent, be disallowed through an adjustment to lower the costs paid by Pike/Waverly customers. (Staff Ex. 1 at 40-41.)

Staff recommended that the UFG levels of Pike/Hillsboro and Southeastern be monitored to determine why the companies are recording greater sales volumes than purchases. Typically, such an outcome is attributable to metering errors, timing differences in the recognition of purchases and sales or the assignment of volumes to sales customers that were actually consumed by transportation customers. (Staff Ex. 1 at 41.)

III. UEX Audit

In its UEX audit report, Staff noted that this is the fourth audit of Eastern's and Pike's UEX riders. Staff began its audit by verifying the monthly write-offs as filed by Eastern in Case Nos. 12-307-GA-UEX and 13-307-GA-UEX and by Pike in Case Nos. 12-314-GA-UEX and 13-314-GA-UEX. The monthly write-offs were traced to their source documents, *i.e.*, the account write-off assessment journals (AWAJs), which contain

customer account balances that have remained unpaid for more than 60 days. The AWAJs also contain an account titled "Adjustment to Write-off" (AWO). The AWO nets out increases (customer account write-offs) against decreases (payments received from collection agencies and customers) on a monthly basis to arrive at the monthly write-off amount. Staff found no differences between the AWO monthly write-off amounts and the write-offs filed by the companies. (Staff Ex. 2 at 1.)

For further verification, Staff randomly sampled customer accounts which had been placed in the AWAJs during 2011 and 2012. Staff requested the customers' payment history for the year(s) in which their account appeared in the AWAJ. Staff traced the customers' payment history to the AWAJ to ensure that the customers' account balances were properly recorded in the AWAJ. Staff further verified that subsequent payments by the customers were credited to the AWAJ. Staff's audit showed that Eastern and Pike properly credited subsequent payments to the AWAJ. Staff noted that the companies properly credited the customers' account balances and decreased the AWO accordingly. Completing its audit, Staff examined invoices from the collection agencies and the amounts placed for recovery through Eastern's and Pike's UEX riders. Staff determined that the amounts in the invoices matched the amounts placed for recovery through the UEX riders. In its recommendation, Staff pointed out that the companies do not separate "Recovery-Other," from "Bad Debts Written Off," and "Collection Expenses" on their Annual Balance reconciliation schedule because of the limitations of their computer system. After the acquisition of the companies by a new owner, the companies implemented a new computer system in July 2013. Staff recommended that the companies create a separate line item for "Recovery-Other." This category should include customer payments received after disconnection and collection agency remittances net of fees. (Staff Ex. 2 at 2-3.)

IV. Stipulations of the Parties

With respect to the UEX Stipulation filed on October 31, 2013, Pike, Eastern, and Staff agreed that the Staff's audit findings should be adopted. Moreover, the parties agree to adopt Staff's recommendation that, beginning July 2013, Eastern and Pike will include "Recovery-Other" as a separate line item that includes customer payments received after disconnection and collection agency remittances net of fees. (Jt. Ex. 2 at 3.)

In order to resolve the issues in the GCR proceedings, Staff and the companies (collectively, the signatory parties) filed the GCR Stipulation for the Commission's consideration on October 28, 2013. The signatory parties agree and recommend that the Commission adopt the findings and audit recommendations contained in the GCR financial audits filed in Case Nos. 13-207-GA-GCR, 13-214-GA-GCR, and 13-215-GA-GCR. More specifically, the signatory parties urge the adoption of the following:

- (1) Eastern will implement an RA of \$9,258 to be added to Eastern's GCR rates. The adjustment represents the net difference Staff found in recording errors in the AA calculations. The adjustment should be applied in the first GCR filing following this Opinion and Order.
- (2) Eastern will implement an RA of \$20,631 to be applied to Eastern's GCR rates. This represents the net difference Staff found in the BA calculations. The adjustment should be applied in the first GCR filing following this Opinion and Order.
- (3) Pike/Hillsboro will implement a reconciliation adjustment of \$303 to be added to its GCR rates. This represents the net difference Staff found in the RA calculations. Pike/Hillsboro will also implement an RA of \$6 to be added to its GCR rates. The adjustment represents the net difference Staff found in the BA calculations. These adjustments should be applied in the first GCR filing following the Opinion and Order in this case.
- (4) Pike/Waverly will implement an RA of (\$305) to be applied to its GCR rates. Staff identified an RA adjustment of (\$47,268) which was to be included in the March 2011 quarter but was recorded during the June 2011 quarter. The timing difference led to a net adjustment to the BA of (\$305). This adjustment should be applied in the first GCR filing following this Opinion and Order.
- (5) Southeastern will implement an RA of (\$80,374) to be applied to Southeastern's GCR rates. This adjustment is taken from Staff's AA calculations. The adjustment should be applied in the first GCR filing following this Opinion and Order. Southeastern will also implement an RA of (\$13,806) to be applied to Southeastern's GCR rates. This adjustment represents the net difference Staff found in the BA calculation.
- (6) Pursuant to Staff's recommendation, Pike/Waverly issued a report to explain the high percentage of UFG. A physical survey of the pipeline system did not reveal significant leakage of natural gas. At this time, there is insufficient information to explain why the UFG percentage exceeds acceptable limits. The parties have agreed that Pike/Waverly and Staff shall continue to investigate whether Pike/Waverly does have a

relatively high UFG percentage and, if so, the cause. The issue is to be addressed in the next GCR proceeding.

(Jt. Ex. 1 at 3-5.)

CONCLUSION:

As stated previously, the parties filed the GCR Stipulation on October 28, 2013, and the UEX Stipulation on October 31, 2013.

Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding on the Commission, the terms of such an agreement are afforded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, at 125, 592 N.E.2d 1370 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (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., *In re The Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al., Opinion and Order (Dec. 30, 1993); *In re The Cincinnati Gas & Electric Co.*, Case No. 92-1463-GA-AIR, et al., Opinion and Order (Aug. 26, 1993); *In re Ohio Edison Co.*, Case No. 89-1001-EL-AIR, Order on Remand (Aug. 19, 1993); *In re The Cleveland Electric Illuminating Co.*, Case No. 88-170-EL-AIR, Opinion and Order (Jan. 31, 1989); and *In re Restatement of Accounts and Records*, Case No. 84-1187-EL-UNC, Opinion and Order (Nov. 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 method economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 629 N.E.2d

423 (1994) citing *Consumers' Counsel*, 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. (*Indus. Energy Consumers*.)

During the November 22, 2013, public hearing, the companies offered the prefilled testimony of Kenneth N. Rosselet, Jr. The purpose of his testimony was to support the GCR and UEX Stipulations and to urge the Commission to adopt it. Mr. Rosselet confirms that the companies agree to Staff's recommendations. Mr. Rosselet's testimony highlights that the GCR and UEX Stipulations is the product of serious bargaining among capable, knowledgeable parties, that it benefits rate payers and is in the public interest, and that it does not violate any important regulatory principle or practice. Co. Ex. 1 at 3-4, 6; Nov. 22, 2013, Tr. at 9.)

Based on our three-pronged standard of review, we find that the first criterion, that the process involved serious bargaining by knowledgeable, capable parties, is clearly met for both the GCR and UEX Stipulations. The companies and Staff have been involved in many cases before the Commission, including a number of GCR and UEX cases. Moreover, these parties have consistently provided helpful information to the Commission in cases regarding GCR and fuel-related policies and practices, UEX cases, as well as in other Commission proceedings. The settlement agreements also meet the second criterion. As a package, the GCR and UEX Stipulations advance the public interest by attempting to resolve all of the issues related to the review of the companies' GCR and fuel-related policies and practices, as well as the UEX issues, during the audit period. Moreover, the GCR and UEX Stipulations meet the third criterion because they do not violate any important regulatory principle or practice. Accordingly, we find that the GCR and UEX Stipulations should be adopted and approved.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Eastern, Pike, and Southeastern are gas companies and natural gas companies within the meaning of R.C. 4905.03, and, as such, are public utilities subject to the supervision and jurisdiction of this Commission.
- (2) R.C. 4905.302, together with Ohio Adm.Code 4901:1-14-07, 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 30, 2013, the Commission initiated these proceedings, established the financial audit periods, established the date upon which the financial audit reports

must be filed, directed Staff to perform the financial audits, scheduled a hearing date of November 12, 2013, and directed the companies to publish notice of the hearing. Staff conducted an audit as required by R.C. 4905.302(C) and Ohio Adm.Code 4901:1-14 and filed its report on September 12, 2013.

- (4) On September 6, 2013, Staff filed its audit of the UEX mechanisms for these companies.
- (5) On October 28, 2013, the companies and Staff filed the GCR Stipulation that resolved all GCR issues. On October 31, 2013, the parties filed the UEX Stipulation that resolved the issues relating to the UEX expense mechanisms of Eastern and Pike.
- (6) Pursuant to R.C. 4905.302(C) and Ohio Adm.Code 4901:1-14-08(A) a public hearing was held on November 12, 2013, and completed on November 22, 2013. The companies published notice of the hearing in compliance with Ohio Adm.Code 4901:1-14-08(C). No public witnesses appeared to testify.
- (7) At the hearing, the parties submitted the GCR and UEX Stipulations intending to resolve all issues in these cases. The GCR and UEX Stipulations are reasonable, meet the criteria used by the Commission to evaluate stipulations, and should be adopted.
- (8) Except as discussed in the GCR Stipulation, and to be corrected in subsequent GCR proceedings, and as found by Staff during the audit period, the companies fairly determined their GCR rates in accordance with Ohio Adm.Code 4901:1-14 and related appendices. Further, the companies' GCR clauses for the audit period were fair, just, and reasonable.
- (9) Eastern and Pike accurately calculated the UEX rider rates during the UEX audit period.

ORDER:

It is, therefore,

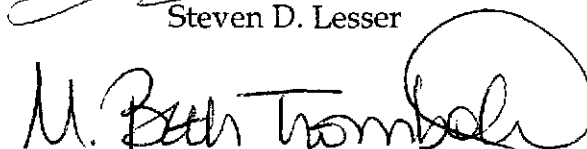
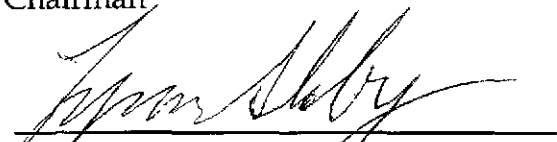

ORDERED, That the GCR and UEX Stipulations of the parties are approved and adopted. It is, further,

ORDERED, That the auditor selected to conduct the companies' next GCR audits shall evaluate how the companies implement the agreements set forth in the GCR Stipulation. It is, further,

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

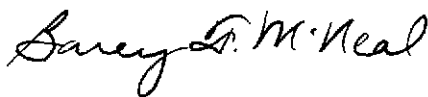
ORDERED, That a copy of this Opinion and Order be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman
Steven D. Lesser
M. Beth Trombold
Lynn Slaby

Asim Z. Haque

LDJ/vrm

Entered in the Journal
FEB 26 2014



Barcy F. McNeal
Secretary