

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. 13-218-GA-GCR
Duke Energy Ohio, Inc. and Related)
Matters.)

In the Matter of the Application of Duke)
Energy Ohio, Inc. for Approval of an) Case No. 13-318-GA-UEx
Adjustment to Its Uncollectible Expense)
Rider Rate.)

OPINION AND ORDER

The Public Utilities Commission of Ohio, 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:

Elizabeth H. Watts, Assistant General Counsel, 155 East Broad Street, 21st Floor, Columbus, Ohio 43215, on behalf of Duke Energy Ohio, Inc.

Mike DeWine, Ohio Attorney General, by Thomas G. Lindgren, Assistant Attorney General, 180 East Broad Street, Columbus, Ohio 43215-3793, on behalf of Staff of the Commission.

OPINION:

I. Summary of the Proceedings

Duke Energy Ohio, Inc. (Duke or Company) is a natural gas company as defined in R.C. 4905.03(A) and a public utility under R.C. 4905.02. Pursuant to R.C. 4905.302, 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 Ohio Adm.Code Chapter 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 effects 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.

By Entry issued on January 30, 2013, the Commission initiated Case No. 13-218-GA-GCR (*2013 GCR Case*), established the financial audit period and established the date upon which the financial report must be filed. In the January 30, 2013 Entry, the Commission scheduled a hearing date of January 13, 2014, and directed Duke to publish notice of the hearing. In accordance with the January 30, 2013 Entry, the financial audit report (Comm.-ordered Ex. 1) was timely filed on November 14, 2013.

On December 21, 2005, the Commission authorized Duke to establish an uncollectible expense (UEX) rider (Rider UE-G), which was initially set at zero. *In re The Cincinnati Gas & Electric Company*, Case No. 05-732-EL-MER, et al., Finding and Order at 18. Since that time, the UEX rider rate has been updated. By Finding and Order issued January 23, 2012, the Commission approved Duke's request for a UEX rider rate of (\$0.20632)¹ per thousand cubic feet (Mcf). *In re Duke Energy Ohio, Inc.*, Case No. 11-318-GA-UEX. The Commission subsequently authorized an increase in Duke's UEX rider to \$0.02926 per Mcf. *In re Duke Energy Ohio, Inc.*, Case No. 12-318-GA-UEX, Finding and Order (Aug. 29, 2012). By Finding and Order issued in Case No. 13-318-GA-UEX (*2013 UEX Case*) on September 4, 2013, the Commission authorized an increase in Duke's UEX rider to \$ 0.05240 per Mcf.

The hearing in the *2013 GCR Case* was convened, as scheduled, on January 13, 2014. At the hearing, no members of the public appeared to testify. On January 10, 2014, a stipulation and recommendation (stipulation) (Jt. Ex. 1) was filed in these cases. Counsel for Staff represented, at the hearing, that Duke and Staff had entered into the stipulation, which resolves all of the issues in the *2013 GCR Case* and the *2013 UEX Case*. Staff also offered as evidence the testimony of Roger Sarver in support of the stipulation.

Ohio Adm.Code 4901:1-14-08(C), specifies that notice of the hearing be published in a newspaper(s) of general circulation throughout the company's service area, by bill insert, bill message, or direct mail to customers. On January 8, 2014, Duke submitted an affidavit of publication (Duke Ex. 1) stating that notice was provided in newspapers of general

¹ Throughout this Order, numbers in parentheses indicates a negative number.

circulation on December 17, 18, 20, and 26, 2013, in the following Ohio counties: Adams, Brown, Butler, Clermont, Clinton, Hamilton, Highland, Montgomery, and Warren. A copy of the notice was included in the filing with the affidavit. Thus, notice was properly provided in accordance with the rule.

II. Financial Audit

The financial audit was conducted by Deloitte & Touche LLP (Deloitte) in accordance with the objectives outlined in Ohio Adm.Code Chapter 4901:1-14, Appendix C. In the financial audit, Deloitte examined the periodic filings of Duke that support the GCR rates for the periods from September 1, 2012 through August 28, 2013. Deloitte found that Duke fairly determined, in all material respects, its GCR rates for the periods 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, and properly applied the GCR rates to customer bills. (Comm.-ordered Ex. 1 at 1.)

With regard to other issues identified in its audit, Deloitte found that, due to a clerical error, Duke overstated the demand volume used to calculate the total expected gas cost of primary supplier/transporter component of the expected gas cost (EGC) rate in 2012 and 2013. These GCR misstatements, which impacted the EGC from August 29, 2012 to December 1, 2013, were self-corrected in the actual adjustment (AA) calculation for the GCR rates. (Comm.-ordered Ex. 1 at 3.)

III. UEX Audit

Deloitte reviewed Duke's UEX recovery mechanism for the period January 1, 2012 through December 31, 2012, and noted no exceptions in Duke's calculations of its write-offs, recovery, and carrying charges for uncollectible expenses during that time period. Deloitte stated that charge-offs used in the calculations related only to account types with customers subject to the UEX rider. Deloitte noted that the bad debts write-offs for this period, net of customer recoveries, totaled \$3,005,135. Further, based on a random review of 25 charge-offs, Deloitte noted no exceptions in the charge-offs reflecting the customer's billing history, including any subsequent recovery of any portion of the balance written off. (Comm.-ordered Ex. 2 at 1-2.)

V. Stipulation

As stated previously, a stipulation (Jt. Ex. 1), signed by Duke and Staff, was filed in these dockets on January 10, 2014. The stipulation was intended by the signatory parties to resolve all outstanding issues in these proceedings. The following is a summary of the

provisions agreed to by the parties and is not intended to replace or supersede the stipulation. The stipulation included, *inter alia*, the following provisions:

- (1) Duke's GCR rates for the 12-month period ending August 28, 2013, were fairly determined by the Company in accordance with the provisions of Ohio Adm.Code Chapter 4901-1-14 and related appendices of the Ohio Administrative Code during the audit period by the Company.
- (2) The GCR rates were accurately computed and the costs reflected in the GCR rates were properly incurred.
- (3) Duke's GCR rates were accurately applied to customer bills during the audit period.
- (4) A financial audit was conducted by Deloitte in accordance with the objectives outlined in Ohio Am.Code 4901:1-14-07.
- (5) The specific findings presented in the "Summary of Findings" of the Deloitte Audit are reasonable and should be adopted by the Commission.

(Jt. Ex. 1 at 4-5.)

CONCLUSION:

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. *See 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 Cincinnati Gas & Elect. Co.*, Case No. 91-410-EL-AIR (Apr. 14, 1994); *In re Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT (Mar. 30, 1994); *In re Ohio Edison Co.*, Case No. 91-698-EL-FOR *et al* (Dec. 30, 1993); *In re Cleveland Electric Illum. Co.*, Case No. 88-170-EL-AIR (Jan. 30, 1989); *In re Restatement of Accounts and Records*, Case No. 84-1187-EL-UNC (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:

- (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, 629 N.E.2d 423 (1994), citing *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St. 3d 123, 126, 592 N.E.2d 1370 (1992). 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 (*Consumers' Counsel* at 126).

At the January 13, 2014, public hearing, Roger Sarver, who supervises gas cost recovery audits for the Commission, testified that the stipulation resulted from arms' length bargaining between knowledgeable, capable parties and benefits the public. Mr. Sarver testified that the stipulation does not violate any public policy. (Tr. at 7-8.) Based on our review of the three-pronged test, the Commission finds the first criterion, that the process involved serious bargaining by knowledgeable, capable parties, is clearly met. The Commission finds that the stipulation filed in these cases appears to be the product of serious bargaining among capable, knowledgeable parties. All parties to the stipulation have been involved in numerous cases before the Commission and have consistently provided extensive and helpful information to the Commission. In addition, the stipulation also meets the second criterion. As a package, the stipulation advances the public interest by resolving all the issues raised in these matters without resulting in extensive litigation. Finally, the stipulation meets the third criterion because it does not violate any important regulatory principle or practice. Accordingly, we find that the stipulation is reasonable and should be adopted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Duke is a natural gas company as defined in R.C. 4905.03(A) and, as such, is a public utility subject to the jurisdiction and supervision of the 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 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 audit periods, established the date upon which the audit reports must be filed, scheduled a hearing date of January 13, 2014, and directed Duke to publish notice of the hearing.
- (4) The financial and UEX audit reports were filed on November 14, 2013.
- (5) On January 10, 2014, a stipulation signed by Duke and Staff was filed.
- (6) Duke published notice of the hearing within the period from 15 to 30 days prior to the date set for the hearing, in substantial compliance with Commission requirements and R.C. 4905.302.
- (7) No public witnesses appeared to testify at the January 13, 2014 hearing. At the hearing, a stipulation was submitted, intending to resolve all issues in these cases.
- (8) The stipulation meets the criteria used by the Commission to evaluate stipulations, is reasonable, and should be adopted.
- (9) Duke accurately calculated its GCR rates for the period starting September 1, 2012, and ending August 28, 2013, in accordance with the uniform purchased gas adjustment as set forth in Ohio Adm.Code Chapter 4901:1-14, and related appendices, except for those instances noted in the audit report, which were determined to be self-correcting.
- (10) Duke accurately calculated the UEX rider rates during the UEX audit period.

ORDER:

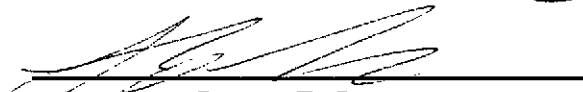
It is, therefore,


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

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

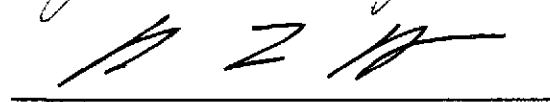
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


Lynn Slaby

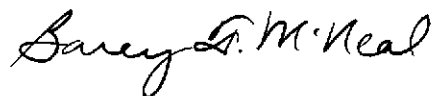

M. Beth Trombold


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Entered in the Journal

FEB 26 2014



Barcy F. McNeal
Secretary